

# **ATTACHMENT 23**

HIGHLY CONFIDENTIAL

Hinton, Gregory Eugene - Vol. I

March 17, 2014

1

IN THE DISTRICT COURT OF WAYNDOTTE COUNTY,

KANSAS

TWENTY-NINTH JUDICIAL DISTRICT

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ASSOCIATED WHOLESALE GROCERS,

INC., et al.,

Plaintiffs,

Case No.

V.

10CV2171

UNITED EGG PRODUCERS, et al.,

HIGHLY

Defendants.

CONFIDENTIAL

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Volume I

Washington, D.C.

March 17, 2014

The deposition of GREGORY EUGENE

HINTON was convened on Monday, March 17, 2014,

Commencing at 9:05 a.m., at the offices of

Porter Wright, 1900 K Street, Northwest

Washington, D.C., before Paula G. Satkin,

Registered Professional Reporter and Notary

Public.

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<p style="text-align: right;">2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of the Plaintiffs:</p> <p>4 PATRICK J. STUEVE, ESQ.</p> <p>5 DAVID A. HICKEY, ESQ.</p> <p>6 Stueve Siegel Hanson LLP</p> <p>7 460 Nichols Road, Suite 200</p> <p>8 Kansas City, Missouri 64112</p> <p>9 (816) 714-7100</p> <p>10</p> <p>11 On behalf of Rose Acre Farms:</p> <p>12 JOHN C. MONICA, JR., ESQ.</p> <p>13 MOLLY CRABTREE, ESQ.</p> <p>14 Porter, Wright, Morris &amp; Arthur LLP</p> <p>15 1900 K Street, NW</p> <p>16 Suite 1110</p> <p>17 Washington, DC 20006</p> <p>18 (202) 778-3000</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">4</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Midwest Poultry:</p> <p>4 RYAN HURLEY, ESQ.</p> <p>5 Faegre Baker Daniels</p> <p>6 300 N. Meridian Street</p> <p>7 Suite 2700</p> <p>8 Indianapolis, IN 46204-1750</p> <p>9 (317) 237-0300</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">3</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of United Egg Producers and US</p> <p>4 Egg Marketers:</p> <p>5 WHITNEY REDDING, ESQ. (Via phone)</p> <p>6 Pepper Hamilton LLP</p> <p>7 3000 Two Logan Square</p> <p>8 Eighteenth and Arch Streets</p> <p>9 Philadelphia, Pennsylvania 19103-2799</p> <p>10 (215) 981-4000</p> <p>11</p> <p>12 On behalf of the Sparboe:</p> <p>13 MATTHEW HARTUNG, ESQ.</p> <p>14 Hutchison, P.A.</p> <p>15 1907 East Wayzata Blvd</p> <p>16 Suite 330</p> <p>17 Wayzata, Minnesota 55391</p> <p>18 (952) 215-0141</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">5</p> <p>1 ALSO PRESENT:</p> <p>2 JOSEPH A. MILLER</p> <p>3 General Counsel, Rose Acre Farms, Inc.</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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<p style="text-align: right;">10</p> <p>1 Q. Is that the headquarters of Rose 2 Acre? 3 <b>A. Yes. It is.</b> 4 Q. And what is your title at Rose 5 Acre? 6 <b>A. Vice-president of sales.</b> 7 Q. And how long have you held that 8 position? 9 <b>A. Since 1992.</b> 10 Q. Okay. Have you had your 11 deposition taken before? 12 <b>A. No. I haven't.</b> 13 Q. All right. So this is the first 14 time? 15 <b>A. Yes.</b> 16 Q. All right. Let me go through a 17 few things. One, we have a court reporter here 18 who is going to transcribe everything that I say 19 and that you say. So it is important you give 20 me verbal responses. 21 <b>A. All right.</b> 22 Q. It is important you allow me to</p>	<p style="text-align: right;">12</p> <p>1 Q. If you answer my question I'm 2 going to assume that you understood it; fair 3 enough? 4 <b>A. Yes.</b> 5 Q. You understand that your testimony 6 is under oath here, just as if you were 7 testifying in a Court of law? 8 <b>A. Yes.</b> 9 Q. All right. And one of the 10 important aspects of that is that if you testify 11 differently at the trial in this matter then I 12 can use this testimony today to discredit your 13 testimony at trial. Do you understand that? 14 <b>A. Yes.</b> 15 Q. All right. You are also being 16 videotaped and this videotape can be played at 17 trial, again, just as if you were a live witness 18 at trial; do you understand that? 19 <b>A. Yes.</b> 20 Q. All right. If you need to take a 21 break just let me know and we'll take a break. 22 Where I would like to start is, if</p>
<p style="text-align: right;">11</p> <p>1 get my question out before you answer. She can 2 only record one person at a time speaking; okay? 3 <b>A. Yes.</b> 4 Q. And if that becomes an issue I'll 5 remind you. 6 In addition, your counsel here, is 7 that Mr. Monica? 8 <b>A. Yes.</b> 9 Q. All right. And you understand 10 he's representing you today in your capacity as 11 witness on behalf of Rose Acre? 12 <b>A. Yes.</b> 13 Q. All right. He also has an 14 opportunity to object to my question. Once his 15 objection has been stated for the record I'll 16 ask you to go ahead and answer the question. 17 Okay? 18 <b>A. Okay.</b> 19 Q. If you don't understand a question 20 that I've asked, please let me know and I'll 21 rephrase it. All right? 22 <b>A. Yes.</b></p>	<p style="text-align: right;">13</p> <p>1 you could, describe for me what your 2 responsibilities currently are as vice-president 3 of sales for Rose Acre? 4 <b>A. Well, I oversee all the sale of</b> 5 <b>shell eggs and egg products for Rose Acre, so</b> 6 <b>I've got responsibility for all of our</b> 7 <b>customers, shell egg and egg products. I've got</b> 8 <b>a staff of about 11 people that work for me,</b> 9 <b>directly under my supervision, that range from</b> 10 <b>customer service reps that take care of the</b> 11 <b>ordering for the customers, to sales people that</b> 12 <b>are on the road, contacting and visiting</b> 13 <b>customers. I'm responsible for setting pricing</b> 14 <b>for the customers and basically all aspects.</b> 15 <b>Whatever involves the egg and egg product</b> 16 <b>customers it falls under my responsibility.</b> 17 Q. Okay. And let's first, if you 18 could, you mentioned that you're responsible 19 overall for the sale of shell eggs; is that 20 right? 21 <b>A. Yes.</b> 22 Q. If you could tell me what products</p>

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<p style="text-align: right;">14</p> <p>1 fall under shell eggs?</p> <p>2 <b>A. Okay. Basically shell eggs, it's</b></p> <p>3 <b>you have different sizes. You have jumbos,</b></p> <p>4 <b>extra large, large, medium, smalls.</b></p> <p>5 <b>We have specialty eggs, which</b></p> <p>6 <b>under specialty shell eggs would encompass</b></p> <p>7 <b>cage-free eggs, Omega-3, vitamin enhanced eggs,</b></p> <p>8 <b>organic eggs.</b></p> <p>9 <b>And then there's -- within those</b></p> <p>10 <b>categories there's different pack sizes. So you</b></p> <p>11 <b>would have loose eggs, which are flats, which</b></p> <p>12 <b>are mainly used for food service for</b></p> <p>13 <b>restaurants, and then carton eggs, which are</b></p> <p>14 <b>primarily for retailers. And within that you</b></p> <p>15 <b>would have single dozen, 18 pack, two-and-a-half</b></p> <p>16 <b>pack, six-pack. So you have a multiple of</b></p> <p>17 <b>different pack sizes that would go along with</b></p> <p>18 <b>shell eggs.</b></p> <p>19 <b>Q. Okay.</b></p> <p>20 <b>MR. MONICA: Pat, did you want him</b></p> <p>21 <b>to tell you about egg products or are you still</b></p> <p>22 <b>on eggs?</b></p>	<p style="text-align: right;">16</p> <p>1 <b>A. Yes. Approximately the last five.</b></p> <p>2 <b>I don't remember the exact year, but it's more</b></p> <p>3 <b>recently, though.</b></p> <p>4 <b>Q. What about Omega-3s? How long</b></p> <p>5 <b>have you been selling Omega-3s?</b></p> <p>6 <b>A. It's over ten years now. Ten to</b></p> <p>7 <b>12 years.</b></p> <p>8 <b>Q. And have those always been</b></p> <p>9 <b>produced at the County Line facility?</b></p> <p>10 <b>A. No. We first produced them at our</b></p> <p>11 <b>North Vernon facility, Jen-Acres, in North</b></p> <p>12 <b>Vernon, Indiana.</b></p> <p>13 <b>Q. Okay. But you've been selling</b></p> <p>14 <b>those for the pass ten years, at least?</b></p> <p>15 <b>A. Yes. At least ten.</b></p> <p>16 <b>Q. And what about cage-free?</b></p> <p>17 <b>A. Our cage-free, we have a farm in</b></p> <p>18 <b>Donovan, Illinois. And then we have a farm in</b></p> <p>19 <b>North Vernon, Indiana, called Jen-Acre Plus.</b></p> <p>20 <b>The Donovan is called Donovan Egg Farm.</b></p> <p>21 <b>Q. And how long have you been selling</b></p> <p>22 <b>cage-free?</b></p>
<p style="text-align: right;">15</p> <p>1 <b>MR. STUEVE: I'm just talking</b></p> <p>2 <b>about shell eggs right now.</b></p> <p>3 <b>MR. MONICA: Okay.</b></p> <p>4 <b>BY MR. STUEVE:</b></p> <p>5 <b>Q. With respect to your specialty</b></p> <p>6 <b>eggs, the Omega-3 and organic eggs?</b></p> <p>7 <b>A. Yes.</b></p> <p>8 <b>Q. Where are those produced?</b></p> <p>9 <b>A. The Omega-3 is produced in</b></p> <p>10 <b>Frankfort, Indiana, at County Line Egg Farm.</b></p> <p>11 <b>And the organics, we purchase all our organics</b></p> <p>12 <b>from Herbrucks, H-E-R-B-R-U-C-K-S, in Michigan.</b></p> <p>13 <b>Q. How long have you purchased your</b></p> <p>14 <b>organic eggs from Herbrucks?</b></p> <p>15 <b>A. Approximately five years now, I</b></p> <p>16 <b>think.</b></p> <p>17 <b>Q. Okay. And prior to that time</b></p> <p>18 <b>where did you purchase your organic?</b></p> <p>19 <b>A. We didn't.</b></p> <p>20 <b>Q. You didn't. Okay. So you just</b></p> <p>21 <b>started the last five years selling organic</b></p> <p>22 <b>eggs?</b></p>	<p style="text-align: right;">17</p> <p>1 <b>A. Well, we first sold cage-free back</b></p> <p>2 <b>in the '60s from our Pentagon locations,</b></p> <p>3 <b>Pentagon 1 and 2. And then as time went by the</b></p> <p>4 <b>industry changed and went from cage-free</b></p> <p>5 <b>production and moved into cage production. So</b></p> <p>6 <b>those farms, the Pentagon farms, the cage-free</b></p> <p>7 <b>were phased out sometime in the '70s late, early</b></p> <p>8 <b>'80s. And then we went back. Donovan, we</b></p> <p>9 <b>purchased that farm sometime in the '90s, I</b></p> <p>10 <b>don't know the exact year, off the top of my</b></p> <p>11 <b>head. We've been back producing cage-free for</b></p> <p>12 <b>the last -- probably close to 20 years now.</b></p> <p>13 <b>Q. Have you been promoting them as a</b></p> <p>14 <b>specialty egg for the last 20 years?</b></p> <p>15 <b>A. Yes.</b></p> <p>16 <b>Q. Under what brand?</b></p> <p>17 <b>A. Multiple brands. We have our own</b></p> <p>18 <b>house brand, which is called Golden Premium,</b></p> <p>19 <b>that's a cage-free. We have -- we've sold them</b></p> <p>20 <b>under Rose Acre Farms brand. We currently have</b></p> <p>21 <b>one that is our own house brand called White</b></p> <p>22 <b>River Valley Farms.</b></p>

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<p style="text-align: right;">18</p> <p>1 Q. White River?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay.</p> <p>4 <b>A. And then we also pack private</b></p> <p>5 <b>label brands for supermarkets.</b></p> <p>6 Q. What about the branding for your</p> <p>7 organic eggs?</p> <p>8 <b>A. The organics are all -- we don't</b></p> <p>9 <b>package -- we don't sell any organics under our</b></p> <p>10 <b>brand, under Rose Acres, any of our own house</b></p> <p>11 <b>brands. They are private label supermarket</b></p> <p>12 <b>brands for each individual customer.</b></p> <p>13 Q. What about Omega-3?</p> <p>14 <b>A. The Omega-3 we pack -- it's also</b></p> <p>15 <b>private -- at one time we did sell a Christopher</b></p> <p>16 <b>brand, that was our own house brand, but we</b></p> <p>17 <b>don't pack that anymore. Today we pack under</b></p> <p>18 <b>customer, private label brands.</b></p> <p>19 Q. And just so the record is clear</p> <p>20 what you mean by that, let's say it's a grocery</p> <p>21 store chain, they'll say, look, we want the</p> <p>22 Omega-3. And then they'll tell you the brand</p>	<p style="text-align: right;">20</p> <p>1 Q. Let's talk about your -- the shell</p> <p>2 eggs, the commodity eggs, the jumbo, extra</p> <p>3 large, large, medium, small. How do you refer</p> <p>4 to those? Do you refer to them as commodity</p> <p>5 eggs, internally?</p> <p>6 <b>A. Yes. Commodity is one of the</b></p> <p>7 <b>terms that we would use.</b></p> <p>8 Q. Okay. And are those eggs</p> <p>9 generally then priced off of the Urner Barry</p> <p>10 market price?</p> <p>11 <b>A. Some are. They can be, yes.</b></p> <p>12 Q. Let's talk about -- so I'll get</p> <p>13 back. We'll talk about the commodity and then</p> <p>14 the specialty eggs, but I want to talk about the</p> <p>15 egg products, which is the other area of</p> <p>16 responsibility; is that correct, you have for</p> <p>17 sales?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And what are those products?</p> <p>20 <b>A. Under egg products I would</b></p> <p>21 <b>categorize we have liquid eggs. We have frozen</b></p> <p>22 <b>eggs. And we have dried eggs, pretty much.</b></p>
<p style="text-align: right;">19</p> <p>1 that they want you to package it under?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay. And that's basically what</p> <p>4 you're doing then for the Omega-3 and the</p> <p>5 organic?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. But the cage-free you do have a</p> <p>8 brand that you market under, a Rose Acre Brand?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And, I'm sorry, what is that</p> <p>11 currently?</p> <p>12 <b>A. White River Valley.</b></p> <p>13 Q. And how long have you been selling</p> <p>14 it?</p> <p>15 <b>A. The White River Valley, it's been</b></p> <p>16 <b>about four years now.</b></p> <p>17 Q. And then prior to that?</p> <p>18 <b>A. Rose Acre. And then -- and</b></p> <p>19 <b>then -- we still have our Golden Premium, also.</b></p> <p>20 Q. Is that a Rose Acre brand, Golden</p> <p>21 Premium?</p> <p>22 <b>A. Yes. Yes. It is.</b></p>	<p style="text-align: right;">21</p> <p>1 <b>And -- then there are subcategories under each</b></p> <p>2 <b>one of those.</b></p> <p>3 Q. Let's start with liquid eggs.</p> <p>4 First of all, where are those produced?</p> <p>5 <b>A. We have three farms we produce</b></p> <p>6 <b>liquid at. One is Seymour, Indiana, Cort Acres</b></p> <p>7 <b>at in Seymour, Indiana. Guthrie Center Egg</b></p> <p>8 <b>Farm.</b></p> <p>9 <b>In Guthrie Center, Iowa and</b></p> <p>10 <b>Pulaski Egg Farm in Francesville, Indiana.</b></p> <p>11 Q. And is there a brand name that you</p> <p>12 sell your liquid eggs?</p> <p>13 <b>A. We sell the majority under our</b></p> <p>14 <b>Rose Acre brand.</b></p> <p>15 Q. And are these primarily to -- who</p> <p>16 are your primary customers for your liquid eggs?</p> <p>17 <b>A. We have -- I guess if you want to</b></p> <p>18 <b>categorize it and break it down, we have</b></p> <p>19 <b>industrial and we also have food service.</b></p> <p>20 <b>On the industrial side, which a</b></p> <p>21 <b>lot of it falls into bulk tankers for</b></p> <p>22 <b>ingredients. We would have Kraft Foods. We</b></p>

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<p style="text-align: right;">22</p> <p>1 would have Rich Products. They are the current 2 ones that buy tankers. 3 Then we also pack in totes, the 4 liquid egg in 2000-pound totes for bakeries. 5 And that would go to Kroger's bakery, Country 6 Oven. Sister Schubert's, who is a bakery. Ohio 7 Farmers, who is a distributor that sells to 8 other bakeries like Main Street Muffins in Ohio. 9 And then on the, more the package 10 size we do bag-in-a-box liquid. Customers would 11 be like Cracker Barrel for the breakfast. We 12 sell them liquid packaged eggs. 13 Q. Would that be primarily for the 14 food service then the bag-in-a-box? 15 A. Yes. 16 Q. Okay. 17 A. And we would sell -- we've got 18 different distributors in different markets that 19 would buy truckloads of liquid bag-in-a-box, and 20 distribute to restaurants, which I'm not aware 21 of all the customers of those. 22 Q. What are the names of the</p>	<p style="text-align: right;">24</p> <p>1 Q. Okay. 2 A. It was produced in Seymour, 3 Indiana. 4 Q. Okay. At the Cort Acres? 5 A. Yes. 6 Q. All right. And how long did you 7 sell frozen eggs? 8 A. More than 15 years. Fifteen, 9 20 years. 10 Q. And were the frozen eggs in liquid 11 form? 12 A. Well, they start out in a liquid 13 form and then they're packed in pails, like 14 mainly two pack sizes, a 30-pound pail or a 15 5-pound gable top. The gable tops -- 5-pound 16 and 2-pound gable top. 5 and 2-pound gable top 17 would be used for small bakeries or even 18 restaurants would buy them. The frozen, 19 30-pound pails, would go to big larger scale 20 bakeries, mainly. So you put the liquid into 21 the pail and put it in the blast freezer and 22 freeze it.</p>
<p style="text-align: right;">23</p> <p>1 distributors? 2 A. Prime Foods in Booneville, 3 Indiana; Dutch Farms in Chicago, Illinois; 4 Demand Badger in Chicago, Illinois. Dutt and 5 Wagner in Abingdon, Virginia; Happy Chicken in 6 Columbus, Ohio. That's some of them. I'm 7 not -- there's others. 8 Q. As I understand it you would, at 9 one of your three facilities you would take 10 shell eggs that are produced by Rose Acre Farms, 11 they would be broken, and a liquid egg product 12 is then produced and it's packaged in a 13 bag-in-a-box package and then sold to these 14 distributors who then turn around and sell them 15 to various restaurants in their regions; is that 16 correct? 17 A. Yes. 18 Q. Now, let's talk about frozen -- 19 frozen egg products. First of all, where are 20 those produced? 21 A. Well, a year-and-a-half ago we 22 quit producing frozen eggs.</p>	<p style="text-align: right;">25</p> <p>1 Q. And why did you stop selling 2 those? 3 A. The market for frozen has been 4 shrinking dramatically over the last five to ten 5 years because of the restaurants are switching 6 to the fresh liquid egg, because we can offer 7 liquid egg with extended shelf life, and so it 8 is just more practical to buy liquid instead of 9 buying frozen and that thawing it out. So it is 10 kind of the transition. We saw our business was 11 changing dramatically from frozen into liquid, 12 so it got to the point it was economic to shut 13 the freezer down. 14 Q. What about dried? Where are your 15 dried eggs produced? 16 A. Okay. We have three dryers. We 17 have a what we call a yellow dryer in Guthrie 18 Center, Iowa, that we produce dried whole egg 19 and yolk. We have a whites dryer in Marshall, 20 Missouri, that we produce dried egg whites. And 21 we have an inedible dryer in Francesville, 22 Indiana, that we produce inedible egg, dry</p>



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<p style="text-align: right;">26</p> <p>1     <b>inedible egg which is sold mainly to pet</b>  2     <b>manufacturers.</b>  3         Q.    So yellow, whites, and inedible  4     eggs; is that correct?  5         A.    <b>Yes.</b>  6         Q.    And let's go with the yellow. Who  7     are the customers for that?  8         A.    <b>It's mainly bakeries. Again, it's</b>  9     <b>customers would be like Flowers Bakery in</b>  10    <b>Georgia. McKee in Crossville, Tennessee. CSM,</b>  11    <b>which is a -- another bakery company. We used</b>  12    <b>to sell Krispy Kreme donuts, but we don't sell</b>  13    <b>them today. Really, the customers, it's all</b>  14    <b>mainly baked goods.</b>  15         Q.    And then what about the whites?  16         A.    <b>The whites is a little more of a</b>  17    <b>variety. Whites go into, we sell like M&amp;M Mars,</b>  18    <b>confectionary companies use dried egg whites.</b>  19    <b>We sold Ceremi companies in the past, imitation</b>  20    <b>crab meet. It's a binder. The Kraft Foods and</b>  21    <b>then -- so, let's see. Gilster Mary Lee, who is</b>  22    <b>a manufacturer of angel food cakes. So it's</b></p>	<p style="text-align: right;">28</p> <p>1     <b>spinoff of the egg in the shells that we</b>  2     <b>centrifuge and then put it into inedible. So</b>  3     <b>USDA would deem it inedible as eggs not fit for</b>  4     <b>human consumption.</b>  5         Q.    What would be the basis for these  6     eggs not being fit for human consumption?  7         A.    <b>It's eggs from a grading plant, if</b>  8     <b>you have eggs that are broken before you get to</b>  9     <b>the packing machine, so it comes out through the</b>  10    <b>egg washer, and they come out of the chicken</b>  11    <b>house they're already cracked and broke. So any</b>  12    <b>broken, checked eggs from the processing plant.</b>  13    <b>And then it's the spin-off from the shells from</b>  14    <b>the breaking operations. So once it's come in</b>  15    <b>contact like with the shell in the breaking</b>  16    <b>operation USDA won't allow you to use it for</b>  17    <b>edible, it has to be deemed inedible, and then</b>  18    <b>you have to denature that product.</b>  19         Q.    What do you mean by that?  20         A.    <b>You add a coloring, a caramel food</b>  21    <b>coloring to the product, so USDA -- it's all</b>  22    <b>regulated by AMS USDA, so they know that product</b></p>
<p style="text-align: right;">27</p> <p>1     <b>used a little different, it's baked goods, like</b>  2     <b>it's the cakes and then also like the</b>  3     <b>confectionary industry, so those are major users</b>  4     <b>of egg whites.</b>  5         Q.    And then the edible eggs, you  6     mentioned, are these primarily for animal  7     consumption?  8         A.    <b>The inedible?</b>  9         Q.    Yes.  10         A.    <b>The inedible is mainly pet food.</b>  11    <b>We would sell Nestle, Purina, Pet Care is a</b>  12    <b>major.</b>  13         Q.    Where is that produced again?  14         A.    <b>In Francesville, Indiana.</b>  15         Q.    What eggs are utilized for that  16     for the inedible?  17         A.    <b>Basically -- it's what USDA deems</b>  18    <b>inedible. So it would be eggs coming out of</b>  19    <b>our -- there's two sources, really. One is from</b>  20    <b>the egg grading plants. It would be the</b>  21    <b>inedible egg that comes from egg grading. And</b>  22    <b>also from our egg breaking plants it's the</b></p>	<p style="text-align: right;">29</p> <p>1     <b>shouldn't be put into edible products, so you</b>  2     <b>have to discolor it.</b>  3         Q.    Now, with respect to the various  4     egg products, the liquid, the frozen, and the  5     dried, how are those generally then distributed  6     once they're made at your various production  7     facilities?  8         A.    <b>Could you repeat that again? I'm</b>  9     <b>sorry.</b>  10         Q.    Yes. What is the -- is the  11    primary distribution channel to sell them to  12    distributors who then sell them to various  13    locations?  14         A.    <b>Are we talking egg products?</b>  15         Q.    I'm talking egg products.  16         A.    <b>Okay. Egg products. No. We do</b>  17    <b>both. That's one channel, you know, through the</b>  18    <b>distributor. That's one opportunity for</b>  19    <b>distribution. The other is direct sales to the</b>  20    <b>customers.</b>  21         Q.    And on those direct sales, how are  22    the products delivered? Do the customers come</p>

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<p style="text-align: right;">30</p> <p>1 and pick it up or do you actually deliver it?</p> <p>2 <b>A. Both.</b></p> <p>3 <b>Q. Okay.</b></p> <p>4 <b>A. So we have some customers who want</b></p> <p>5 <b>to pick up their own product as a back haul</b></p> <p>6 <b>saving for freight reasons. Others, they ask</b></p> <p>7 <b>for delivery.</b></p> <p>8 <b>Q. What about -- what is the</b></p> <p>9 <b>breakdown, currently, between your egg product</b></p> <p>10 <b>sales and your shell egg sales?</b></p> <p>11 <b>A. It's about 70 percent shell eggs</b></p> <p>12 <b>and 30 percent egg products.</b></p> <p>13 <b>Q. And has that -- how long has that</b></p> <p>14 <b>been the breakdown, approximately?</b></p> <p>15 <b>A. For quite a few years. Probably</b></p> <p>16 <b>more than ten years it's been pretty similar.</b></p> <p>17 <b>The pass year it may have went a</b></p> <p>18 <b>little heavier in the shell eggs. It's possibly</b></p> <p>19 <b>at 72/28 this past year.</b></p> <p>20 <b>Q. But that 70/30 ratio has been</b></p> <p>21 <b>pretty consistent for the last decade?</b></p> <p>22 <b>A. Yes. Yes, it has.</b></p>	<p style="text-align: right;">32</p> <p>1 <b>Q. And who held that position before</b></p> <p>2 <b>Amanda?</b></p> <p>3 <b>A. No one.</b></p> <p>4 <b>Q. Okay. So that was a newly created</b></p> <p>5 <b>position?</b></p> <p>6 <b>A. Yes.</b></p> <p>7 <b>Q. And what are her responsibilities</b></p> <p>8 <b>as director of sales?</b></p> <p>9 <b>A. She oversees -- for myself she</b></p> <p>10 <b>would oversee all of our -- all of our</b></p> <p>11 <b>customers. She has direct responsibility for</b></p> <p>12 <b>contacting new customers, working on new</b></p> <p>13 <b>business, as well as taking care of existing</b></p> <p>14 <b>business.</b></p> <p>15 <b>Q. And would that include both shell</b></p> <p>16 <b>egg and egg products?</b></p> <p>17 <b>A. Yes.</b></p> <p>18 <b>Q. Okay. And who else?</b></p> <p>19 <b>A. Okay. Aaron Heironimus. I knew</b></p> <p>20 <b>she was going to give me the eye on that,</b></p> <p>21 <b>H-e-i-r-o-n-i-m-u-s.</b></p> <p>22 <b>THE REPORTER: Aaron with an E or</b></p>
<p style="text-align: right;">31</p> <p>1 <b>Q. Okay.</b></p> <p>2 <b>MR. MONICA: Mr. Hinton, just let</b></p> <p>3 <b>him finish the whole question.</b></p> <p>4 <b>THE WITNESS: Oh.</b></p> <p>5 <b>BY MR. STUEVE:</b></p> <p>6 <b>Q. Now, if you would, you mentioned</b></p> <p>7 <b>that you have approximately 11 folks that you</b></p> <p>8 <b>supervise; is that right?</b></p> <p>9 <b>A. Yes.</b></p> <p>10 <b>Q. And, if you could, can you just</b></p> <p>11 <b>kind of breakdown how -- do you call it the</b></p> <p>12 <b>sales department?</b></p> <p>13 <b>A. Yes. Sales department.</b></p> <p>14 <b>Q. How does the sales department</b></p> <p>15 <b>break down?</b></p> <p>16 <b>A. Okay. Well, I'm the head of the</b></p> <p>17 <b>sales department as vice-president of sales.</b></p> <p>18 <b>Directly under me is Amanda</b></p> <p>19 <b>Jackson. She's our director of sales.</b></p> <p>20 <b>Q. How long has she held that</b></p> <p>21 <b>position?</b></p> <p>22 <b>A. Approximately two years.</b></p>	<p style="text-align: right;">33</p> <p>1 <b>an A?</b></p> <p>2 <b>THE WITNESS: A-a. He's our</b></p> <p>3 <b>national sales manager for liquid products.</b></p> <p>4 <b>BY MR. STUEVE:</b></p> <p>5 <b>Q. Okay. How long has he had that</b></p> <p>6 <b>position?</b></p> <p>7 <b>A. More than ten years.</b></p> <p>8 <b>Q. Does he report directly to you?</b></p> <p>9 <b>A. Yes. And -- he reports to myself.</b></p> <p>10 <b>Obviously, I'm over everyone in the department,</b></p> <p>11 <b>but he would report directly to Amanda.</b></p> <p>12 <b>Q. Okay. And you said she just</b></p> <p>13 <b>joined two years ago, so who did he report to</b></p> <p>14 <b>prior to that time?</b></p> <p>15 <b>A. He reported to me.</b></p> <p>16 <b>Q. Prior to --</b></p> <p>17 <b>A. Prior to Amanda, but --</b></p> <p>18 <b>Q. Okay.</b></p> <p>19 <b>A. But Amanda -- that was a newly</b></p> <p>20 <b>created position, but Amanda has been with the</b></p> <p>21 <b>company for more than 15 years.</b></p> <p>22 <b>Q. I'll get back to that.</b></p>

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<p style="text-align: right;">34</p> <p>1 <b>A. Prior to that he reported to me.</b></p> <p>2 Q. All right. So for several years</p> <p>3 as the national sales manger for liquid products</p> <p>4 he would have reported directly to you. That</p> <p>5 changed two years ago. He still reports to you,</p> <p>6 but he also is now reporting to Amanda Jackson?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. Okay. And I'll come back to his</p> <p>9 specific responsibilities. Who else is part of</p> <p>10 the team?</p> <p>11 <b>A. Brad Ginnane, G-i-n-n-a-n-e. He's</b></p> <p>12 <b>national sales manager for dried products.</b></p> <p>13 Q. How long has Brad Ginnane had that</p> <p>14 position?</p> <p>15 <b>A. Close to 20 years.</b></p> <p>16 Q. And who does he report to,</p> <p>17 currently?</p> <p>18 <b>A. Currently, to Jeff Cutler.</b></p> <p>19 Q. Okay. How long has he reported to</p> <p>20 Jeff Cutler?</p> <p>21 <b>A. About a year now.</b></p> <p>22 Q. And prior to a year ago who did he</p>	<p style="text-align: right;">36</p> <p>1 Q. Nieble?</p> <p>2 <b>A. Nieble.</b></p> <p>3 Q. Okay. What's his title?</p> <p>4 <b>A. He doesn't actually have a title,</b></p> <p>5 <b>but he's sales.</b></p> <p>6 Q. For what products?</p> <p>7 <b>A. For shell eggs.</b></p> <p>8 Q. Is that national?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Or region?</p> <p>11 <b>A. National.</b></p> <p>12 Q. And who does -- who does Matt</p> <p>13 report to?</p> <p>14 <b>A. Amanda Jackson.</b></p> <p>15 Q. Who does Lindsey Schepman report</p> <p>16 to?</p> <p>17 <b>A. Amanda Jackson.</b></p> <p>18 Q. How long has Mat Nieble been</p> <p>19 responsible for shell egg sales on a national</p> <p>20 level?</p> <p>21 <b>A. For about a year.</b></p> <p>22 Q. And did he replace someone?</p>
<p style="text-align: right;">35</p> <p>1 report to?</p> <p>2 <b>A. To myself.</b></p> <p>3 Q. Who else?</p> <p>4 <b>A. Lindsey Schepman, S-c-h-e-p-m-a-n.</b></p> <p>5 Q. Is that a he or a she?</p> <p>6 <b>A. She.</b></p> <p>7 Q. Okay. And what is her title?</p> <p>8 <b>A. Customer service manager.</b></p> <p>9 Q. All right. Does she have -- is</p> <p>10 that for all customers or is it broken out,</p> <p>11 shell versus egg products?</p> <p>12 <b>A. For shell eggs.</b></p> <p>13 Q. Shell eggs. Okay. And how long</p> <p>14 has she had this position?</p> <p>15 <b>A. Two years.</b></p> <p>16 Q. And who held that position prior</p> <p>17 to her?</p> <p>18 <b>A. Newly created position.</b></p> <p>19 Q. All right. Who else?</p> <p>20 <b>A. Matt Nieble.</b></p> <p>21 Q. How do you spell his last name?</p> <p>22 <b>A. N-i-e-b-l-e.</b></p>	<p style="text-align: right;">37</p> <p>1 <b>A. Lindsey Schepman.</b></p> <p>2 Q. Who else is on the team?</p> <p>3 <b>A. Catherine Horton, H-o-r-t-o-n.</b></p> <p>4 Q. Horton?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Sorry.</p> <p>7 <b>A. Sorry.</b></p> <p>8 Q. Catherine Horton. What is her</p> <p>9 title?</p> <p>10 <b>A. Customer service rep.</b></p> <p>11 Q. For what products?</p> <p>12 <b>A. Shell eggs.</b></p> <p>13 Q. How long has she held that</p> <p>14 position?</p> <p>15 <b>A. Just about a year.</b></p> <p>16 Q. Who does she report to?</p> <p>17 <b>A. Lindsey Schepman.</b></p> <p>18 Q. Who else is in the department?</p> <p>19 <b>A. Cindy Hackney, H-a-c-k-n-e-y.</b></p> <p>20 Q. Okay. What's her title?</p> <p>21 <b>A. Customer service rep.</b></p> <p>22 Q. And what products?</p>

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<p style="text-align: right;">38</p> <p>1       <b>A. Shell eggs.</b></p> <p>2       Q. How long has she held that</p> <p>3       position?</p> <p>4       <b>A. I think it's close to ten years,</b></p> <p>5       <b>approximately.</b></p> <p>6       Q. Okay. And who does Cindy report</p> <p>7       to?</p> <p>8       <b>A. Lindsey Schepman.</b></p> <p>9       Q. Okay. Who else is in there?</p> <p>10      <b>A. Brittany Cornett -- I didn't know</b></p> <p>11      <b>I was going to have a spelling test. I'm going</b></p> <p>12      <b>to get one wrong. It's C-o-r-n-e-t-t, Cornett.</b></p> <p>13      Q. Unfortunately for you, if you get</p> <p>14      it wrong you don't get to sit down. You have to</p> <p>15      stay up here and answer questions.</p> <p>16      MR. MONICA: I object to that.</p> <p>17      BY MR. STUEVE:</p> <p>18      Q. What is Brittany's title?</p> <p>19      <b>A. Customer service rep.</b></p> <p>20      MR. MONICA: They'll never see the</p> <p>21      transcript so you don't have to worry that you</p> <p>22      misspelled their name.</p>	<p style="text-align: right;">40</p> <p>1       <b>A. Lindsey Schepman.</b></p> <p>2       Q. Who else is in the department?</p> <p>3       <b>A. Bob Niewedde.</b></p> <p>4       Q. How do you spell his last name?</p> <p>5       <b>A. N-i-e-w-e-d-d-e.</b></p> <p>6       Q. It's pronounced Niewedde?</p> <p>7       <b>A. Niewedde. Correct.</b></p> <p>8       Q. What's his title?</p> <p>9       <b>A. He doesn't necessarily have one.</b></p> <p>10      <b>He's just -- he's sales. Outside sales.</b></p> <p>11      Q. For what products?</p> <p>12      <b>A. For shell eggs.</b></p> <p>13      Q. Okay. How long has he held this</p> <p>14      position?</p> <p>15      <b>A. Probably close to 20 years.</b></p> <p>16      Q. Okay. Who does he report to?</p> <p>17      <b>A. Amanda Jackson.</b></p> <p>18      Q. Who else is in the department?</p> <p>19      <b>A. Mark Anchorage.</b></p> <p>20      Q. Okay. What's his title?</p> <p>21      <b>A. He's field staff, quality</b></p> <p>22      <b>inspections for shell eggs.</b></p>
<p style="text-align: right;">39</p> <p>1       BY MR. STUEVE:</p> <p>2       Q. Who does Brittany report to?</p> <p>3       <b>A. Lindsey Schepman.</b></p> <p>4       Q. And what products?</p> <p>5       <b>A. Shell eggs.</b></p> <p>6       Q. Who else is in the department?</p> <p>7       <b>A. Drew Royalty.</b></p> <p>8       Q. And what's his position?</p> <p>9       <b>A. He's got a dual role. He's</b></p> <p>10      <b>customer service rep, newly customer service</b></p> <p>11      <b>rep. And he's also field staff for quality</b></p> <p>12      <b>inspections at supermarkets.</b></p> <p>13      Q. How long has he held this</p> <p>14      position?</p> <p>15      <b>A. Nine months.</b></p> <p>16      Q. Who does he report to?</p> <p>17      <b>A. Because of his dual role he</b></p> <p>18      <b>reports to Lindsey Schepman and Amanda Jackson.</b></p> <p>19      Q. And how long has Brittany Cornett</p> <p>20      had her position?</p> <p>21      <b>A. Two years now.</b></p> <p>22      Q. And who does she report to?</p>	<p style="text-align: right;">41</p> <p>1       Q. How long has he held that</p> <p>2       position?</p> <p>3       <b>A. About -- a little over more than</b></p> <p>4       <b>five years.</b></p> <p>5       Q. Who does he report to?</p> <p>6       <b>A. Amanda Jackson.</b></p> <p>7       Q. Anyone else?</p> <p>8       <b>A. Travis Kuntz, K-u-n-t-z.</b></p> <p>9       Q. Kuntz?</p> <p>10      <b>A. Yes.</b></p> <p>11      Q. What's Travis' position?</p> <p>12      <b>A. Outside rep for quality shell egg</b></p> <p>13      <b>inspections.</b></p> <p>14      Q. How long has he held this</p> <p>15      position?</p> <p>16      <b>A. About two years now.</b></p> <p>17      Q. Who does he report to?</p> <p>18      <b>A. Amanda Jackson.</b></p> <p>19      Q. Anyone else?</p> <p>20      <b>A. Ralph Kimsey, K-i-m-s-e-y.</b></p> <p>21      Q. What's his title?</p> <p>22      <b>A. Account rep for Ingles</b></p>

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<p style="text-align: right;">42</p> <p>1 <b>Supermarkets.</b></p> <p>2 Q. What supermarket?</p> <p>3 <b>A. Ingles, I-n-g-l-e-s, Ingles.</b></p> <p>4 Q. Where are they located?</p> <p>5 <b>A. They're based in Black Mountain,</b></p> <p>6 <b>North Carolina.</b></p> <p>7 Q. Are they a large grocery chain</p> <p>8 there?</p> <p>9 <b>A. Yes. They're a regional</b></p> <p>10 <b>supermarket chain.</b></p> <p>11 Q. Do you know how many stores?</p> <p>12 <b>A. Approximately 100 stores.</b></p> <p>13 Q. How long has he held that</p> <p>14 position?</p> <p>15 <b>A. For a little over five years now.</b></p> <p>16 Q. Would that have occurred at the</p> <p>17 time you acquired the North Carolina facility?</p> <p>18 <b>A. No.</b></p> <p>19 Q. All right. Has -- how long has</p> <p>20 Ingles Supermarket been a customer of Rose Acre?</p> <p>21 <b>A. For about five years now.</b></p> <p>22 Q. And how did you acquire that</p>	<p style="text-align: right;">44</p> <p>1 Q. What was the reason for that?</p> <p>2 <b>A. We decided to restructure the</b></p> <p>3 <b>sales department. And we basically -- I gave</b></p> <p>4 <b>Amanda a promotion. She was a salesperson on</b></p> <p>5 <b>the road and so making her director of sales.</b></p> <p>6 <b>And our company we restructured some regional</b></p> <p>7 <b>areas, so we put a customer service person --</b></p> <p>8 <b>put Lindsey, brought her off the road, put --</b></p> <p>9 <b>Matt took over her position on the road on</b></p> <p>10 <b>outside sales and we -- at that point -- we</b></p> <p>11 <b>always had customer service but never had it</b></p> <p>12 <b>structured that way. We just did a</b></p> <p>13 <b>restructuring of the department.</b></p> <p>14 Q. Was this about the time that</p> <p>15 Marcus Rust became CEO?</p> <p>16 <b>A. It would have been after that.</b></p> <p>17 <b>Correct.</b></p> <p>18 Q. Was that restructuring at the</p> <p>19 direction of Marcus Rust?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Whose idea was it?</p> <p>22 <b>A. It was a joint idea between myself</b></p>
<p style="text-align: right;">43</p> <p>1 client?</p> <p>2 <b>A. Through the acquisition of Crystal</b></p> <p>3 <b>Farms in Georgia.</b></p> <p>4 Q. Was that approximately five years</p> <p>5 ago?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Who does Ralph report to?</p> <p>8 <b>A. To myself.</b></p> <p>9 Q. Who else in the sales department?</p> <p>10 Anyone else?</p> <p>11 <b>A. That's everybody, today.</b></p> <p>12 Q. Okay.</p> <p>13 MR. MONICA: Please don't take him</p> <p>14 back to 1992.</p> <p>15 MR. STUEVE: What's that?</p> <p>16 MR. MONICA: Don't take him back</p> <p>17 to 1992.</p> <p>18 BY MR. STUEVE:</p> <p>19 Q. What I'm trying to figure out is</p> <p>20 there appears to be a number of folks who took</p> <p>21 up their new positions about two years ago?</p> <p>22 <b>A. Yes.</b></p>	<p style="text-align: right;">45</p> <p>1 <b>and Tony Wesner.</b></p> <p>2 Q. And after Marcus Rust became the</p> <p>3 CEO, he took on the chief operating officer</p> <p>4 position; is that right?</p> <p>5 <b>A. He took on the CEO position.</b></p> <p>6 Q. What position did Marcus Rust take</p> <p>7 on?</p> <p>8 <b>A. Oh. I just said Marcus took on</b></p> <p>9 <b>the CEO position.</b></p> <p>10 Q. I know. But what was Tony</p> <p>11 Wesner's position at that time?</p> <p>12 <b>A. His new position?</b></p> <p>13 Q. Yeah.</p> <p>14 <b>A. COO.</b></p> <p>15 Q. Chief operating officer?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Okay. My bad -- I was talking</p> <p>18 about Tony, you thought I was talking about</p> <p>19 Marcus. At that time under the restructuring</p> <p>20 Tony would have been the chief operating</p> <p>21 officer?</p> <p>22 <b>A. Correct.</b></p>

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<p style="text-align: right;">46</p> <p>1 Q. And you would have consulted with</p> <p>2 them about the restructure of the sales</p> <p>3 department?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. So before the restructuring how</p> <p>6 was the sales department structured?</p> <p>7 <b>A. Everyone answered to me, directly.</b></p> <p>8 Q. Okay. So what was Amanda</p> <p>9 Jackson's position before the restructuring?</p> <p>10 <b>A. She was a sales rep.</b></p> <p>11 Q. For?</p> <p>12 <b>A. For shell eggs. For shell eggs.</b></p> <p>13 Q. And was that nationally?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. And she reported to you; is that</p> <p>16 right?</p> <p>17 <b>A. Correct.</b></p> <p>18 Q. How long did she hold that</p> <p>19 position?</p> <p>20 <b>A. More than 15 years.</b></p> <p>21 Q. And where is she located?</p> <p>22 <b>A. Seymour, Indiana.</b></p>	<p style="text-align: right;">48</p> <p>1 Q. Excuse me. Shell eggs?</p> <p>2 <b>A. Shell eggs.</b></p> <p>3 Q. How long did she have that</p> <p>4 position?</p> <p>5 <b>A. More than 15 years.</b></p> <p>6 Q. What about Matt Nieble?</p> <p>7 <b>A. He was customer service rep.</b></p> <p>8 Q. For how many years?</p> <p>9 <b>A. About approximately a</b></p> <p>10 <b>year-and-a-half, two years.</b></p> <p>11 Q. Is that when he joined the</p> <p>12 company?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Okay. Did he replace someone?</p> <p>15 <b>A. No.</b></p> <p>16 Q. What about Catherine Horton?</p> <p>17 <b>A. What --</b></p> <p>18 Q. What was her position prior to the</p> <p>19 restructuring?</p> <p>20 <b>A. Oh. Customer service rep.</b></p> <p>21 Q. For how many years?</p> <p>22 <b>A. For one year.</b></p>
<p style="text-align: right;">47</p> <p>1 Q. All right. And then what about</p> <p>2 Aaron? Did he report to you?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And was he the national sales</p> <p>5 manager for liquid?</p> <p>6 <b>A. Correct. It was liquid and</b></p> <p>7 <b>frozen.</b></p> <p>8 Q. And then what about Brad, is it</p> <p>9 Ginnane?</p> <p>10 <b>A. Correct.</b></p> <p>11 Q. Who would have been national sales</p> <p>12 manager for dry products?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Reporting directly to you?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And what about Lindsey Schepman at</p> <p>17 that time?</p> <p>18 <b>A. She was a sales rep.</b></p> <p>19 Q. Also nationwide?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. For egg shells?</p> <p>22 <b>A. Yes.</b></p>	<p style="text-align: right;">49</p> <p>1 Q. Prior to the restructuring?</p> <p>2 <b>A. No. She came after the</b></p> <p>3 <b>restructuring.</b></p> <p>4 Q. Okay. So she was not with -- by</p> <p>5 the way, was the restructuring sometime in 2011</p> <p>6 or was it 2012?</p> <p>7 MR. MONICA: If you know. Do your</p> <p>8 best.</p> <p>9 THE WITNESS: I believe it was</p> <p>10 2012.</p> <p>11 BY MR. STUEVE:</p> <p>12 Q. To the best of your recollection?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. So her position as a customer</p> <p>15 service rep was created then after the</p> <p>16 restructuring?</p> <p>17 <b>A. Well, no. Her position wasn't</b></p> <p>18 <b>created then, but she hired in new. She was a</b></p> <p>19 <b>new hire.</b></p> <p>20 Q. Who did she replace?</p> <p>21 MR. MONICA: Again, if you recall.</p> <p>22 THE WITNESS: I don't -- I don't</p>



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<p style="text-align: right;">50</p> <p>1 think she necessarily replaced. We added an 2 additional customer service rep. 3 BY MR. STUEVE: 4 Q. During this restructuring were 5 there certain folks that were in the sales 6 department that were let go or no longer with 7 the company? 8 <b>A. No.</b> 9 Q. So everyone you just added a 10 position or restructured their responsibilities? 11 <b>A. Yes.</b> 12 Q. So Catherine Horton would be 13 someone who came on after restructuring and it 14 was a newly created position? 15 <b>A. Correct.</b> 16 Q. And then what about Sidney 17 Hackney? Prior to the restructuring was her 18 responsibility for customer service shell egg? 19 <b>A. Yes.</b> 20 Q. And she reported to you? 21 <b>A. Yes.</b> 22 Q. And then what about Brittany</p>	<p style="text-align: right;">52</p> <p>1 <b>think of it.</b> 2 Q. Was it someone that was let go or 3 were they just repositioned in the company? 4 <b>A. No. Somebody that left the</b> 5 <b>company. Took another job.</b> 6 Q. Okay. How long had this other 7 person been with the company? 8 <b>A. About two years. Tyler Lewis.</b> 9 Q. What was Tyler Lewis' position? 10 <b>A. Field staff quality inspection,</b> 11 <b>shell eggs.</b> 12 Q. So when Drew was brought on he had 13 that responsibility, as well as some customer 14 service rep responsibilities? 15 <b>A. He's recently taken on the</b> 16 <b>customer service responsibilities.</b> 17 Q. All right. And then what about 18 Bob Niewedde, was he shell egg sales prior to 19 the restructuring? 20 <b>A. Yes.</b> 21 Q. And reported directly to you? 22 <b>A. Yes.</b></p>
<p style="text-align: right;">51</p> <p>1 Cornett? 2 <b>A. She started about the time of the</b> 3 <b>restructuring as a new hire.</b> 4 Q. And did she replace anyone? 5 <b>A. No.</b> 6 Q. So this was another newly created 7 position? 8 <b>A. Yes.</b> 9 Q. And then what about Drew? Is that 10 a newly created position, Drew? 11 <b>A. His -- for the outside quality</b> 12 <b>inspections, yes.</b> 13 Q. So let me ask you this. Prior to 14 the restructuring -- sorry is it Drew Royalty? 15 <b>A. Yes.</b> 16 Q. Okay. What was his 17 responsibility? 18 <b>A. He was a new hire, last May.</b> 19 Q. Okay. Did he replace anybody? 20 <b>A. No -- sorry. Yes. He did.</b> 21 Q. All right. 22 <b>A. I'm sorry. He replaced -- I'll</b></p>	<p style="text-align: right;">53</p> <p>1 Q. And then Mark Anchorage, what was 2 his responsibility prior to restructuring? 3 <b>A. Same. Outside sales. Quality</b> 4 <b>inspections.</b> 5 Q. And he kept that same 6 responsibility, but now reports to Amanda 7 Jackson? 8 <b>A. Correct.</b> 9 Q. Okay. What about Travis? 10 <b>A. Same as Mark. Had the same</b> 11 <b>responsibility and kept it and reports to</b> 12 <b>Amanda.</b> 13 Q. And -- but he -- you had him down 14 as approximately two years; is that right, he's 15 been with the company? 16 <b>A. Yes.</b> 17 Q. Okay. Did he replace someone? 18 <b>A. No.</b> 19 Q. So he was an added position? 20 <b>A. Correct.</b> 21 Q. And then we've already talked 22 about Ralph Kimsey. Did he have the same</p>

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<p style="text-align: right;">54</p> <p>1 responsibility prior to the restructuring?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. All right. So let's talk a little</p> <p>4 bit about the -- both, Travis and Mark and Drew</p> <p>5 have responsibilities for quality inspection of</p> <p>6 shell eggs; is that right?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. And let's start with Travis.</p> <p>9 First of all, where is he located?</p> <p>10 <b>A. In Iowa.</b></p> <p>11 Q. Does he office out of his house?</p> <p>12 <b>A. Out of the -- he -- the three</b></p> <p>13 <b>farms in Iowa would be his -- but he travels the</b></p> <p>14 <b>majority of the time.</b></p> <p>15 Q. And where does -- what</p> <p>16 specifically does he inspect?</p> <p>17 <b>A. Shell eggs. He goes -- he visits</b></p> <p>18 <b>supermarkets and he inspects the quality of the</b></p> <p>19 <b>shell eggs at the supermarkets. He works with</b></p> <p>20 <b>dairy managers if there's any issues with the</b></p> <p>21 <b>shell eggs that they're seeing, you know, coming</b></p> <p>22 <b>in, and then reports back to the quality</b></p>	<p style="text-align: right;">56</p> <p>1 on a weekly basis, travel to supermarkets?</p> <p>2 <b>A. Travels to supermarkets and does</b></p> <p>3 <b>quality inspections. Correct.</b></p> <p>4 Q. Is there a form that he fills out?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Okay. And what's the name of</p> <p>7 that?</p> <p>8 <b>A. Shell egg quality inspection form.</b></p> <p>9 <b>It doesn't necessarily have a name.</b></p> <p>10 Q. Is it an Excel spreadsheet? Is it</p> <p>11 a Word document? What is it?</p> <p>12 <b>A. Excel. I believe it's an Excel</b></p> <p>13 <b>spreadsheet.</b></p> <p>14 Q. And what is the information that</p> <p>15 is contained on this Excel spreadsheet that he</p> <p>16 prepares daily?</p> <p>17 <b>A. Some of the things that are on it</b></p> <p>18 <b>would include the temperature of the cooler at</b></p> <p>19 <b>the store, and then the quality inspections. I</b></p> <p>20 <b>mean, it will have -- there's different columns</b></p> <p>21 <b>for checks, dirties, loss. And then there's a</b></p> <p>22 <b>remarks column where he can enter in any special</b></p>
<p style="text-align: right;">55</p> <p>1 department at all the farms, as well as myself</p> <p>2 and Amanda. There's several people on an e-mail</p> <p>3 list. Every day that he reports back daily on</p> <p>4 what he's finding on the shell egg quality at</p> <p>5 the supermarkets.</p> <p>6 Q. Does he also track pricing?</p> <p>7 <b>A. Pricing? No.</b></p> <p>8 Q. So he collects no data with</p> <p>9 respect to the pricing of the products that he's</p> <p>10 inspecting?</p> <p>11 MR. MONICA: If you know.</p> <p>12 THE WITNESS: I'm trying to think.</p> <p>13 Does Travis report. On his reports he does put</p> <p>14 down what the retail price is he's seen at the</p> <p>15 store on his quality inspections.</p> <p>16 BY MR. STUEVE:</p> <p>17 Q. He does?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And those are prepared each day he</p> <p>20 does his inspections; is that correct?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And is that primarily what he does</p>	<p style="text-align: right;">57</p> <p>1 remarks he wants to make about what he found.</p> <p>2 There's -- it will have the store information,</p> <p>3 the name and address of the store. The dairy</p> <p>4 manager, and the brands that he inspected. The</p> <p>5 size and brand.</p> <p>6 Q. Okay. And does he then include</p> <p>7 with respect to those brands and sizes their</p> <p>8 retail price?</p> <p>9 <b>A. Not always, but he can put the</b></p> <p>10 <b>retail price down. But I don't think he always</b></p> <p>11 <b>puts it down, but he has.</b></p> <p>12 Q. Who uses that information?</p> <p>13 MR. MONICA: Objection.</p> <p>14 Objection. Foundation.</p> <p>15 THE WITNESS: Which information?</p> <p>16 BY MR. STUEVE:</p> <p>17 Q. The retail price information?</p> <p>18 <b>A. Nobody.</b></p> <p>19 Q. You're the person that's</p> <p>20 responsible for pricing of eggs; right?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And you don't use it?</p>



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<p style="text-align: right;">58</p> <p>1 <b>A. No.</b></p> <p>2 Q. Why is he collecting it?</p> <p>3 MR. MONICA: Objection. If you</p> <p>4 know.</p> <p>5 THE WITNESS: We -- as far as the</p> <p>6 pricing that he collects, it's there, but I</p> <p>7 don't use it for anything.</p> <p>8 BY MR. STUEVE:</p> <p>9 Q. It's not important for you to know</p> <p>10 what the retail price of your Rose Acre products</p> <p>11 are being sold at?</p> <p>12 <b>A. No.</b></p> <p>13 Q. How do you determine the price of</p> <p>14 your specialty eggs?</p> <p>15 MR. MONICA: Object to the form.</p> <p>16 THE WITNESS: How do I determine</p> <p>17 the price?</p> <p>18 BY MR. STUEVE:</p> <p>19 Q. Yeah.</p> <p>20 <b>A. Specifically to what specialty</b></p> <p>21 <b>egg?</b></p> <p>22 Q. Does it differ?</p>	<p style="text-align: right;">60</p> <p>1 would look at -- the freight would be a</p> <p>2 component, depending on what customer it is and,</p> <p>3 you know, how much freight is involved in that</p> <p>4 pricing. We add in any fees that we have to pay</p> <p>5 on the Omega-3, and determine all of our costs,</p> <p>6 and then we would add a margin to that price.</p> <p>7 Q. Is there a typical target margin?</p> <p>8 MR. MONICA: I continue my</p> <p>9 objection to questioning on specialty eggs when</p> <p>10 it is not part of this suit. You can answer.</p> <p>11 THE WITNESS: No. There's no</p> <p>12 specific. It varies. And then it depends on,</p> <p>13 you know, the marketplace and what we can get</p> <p>14 for the eggs.</p> <p>15 BY MR. STUEVE:</p> <p>16 Q. What are the factors that impact</p> <p>17 the margin that you're going to ask for?</p> <p>18 MR. MONICA: Same objection. You</p> <p>19 can answer.</p> <p>20 THE WITNESS: The factors that</p> <p>21 impact the margin? It would be -- it's really</p> <p>22 what we determine. It's our call on what margin</p>
<p style="text-align: right;">59</p> <p>1 <b>A. The components of the price would</b></p> <p>2 <b>differ. Yes.</b></p> <p>3 Q. Why don't we take Omega-3?</p> <p>4 <b>A. Okay.</b></p> <p>5 MR. MONICA: I'm just going to</p> <p>6 lodge an objection to -- I've let you have some</p> <p>7 latitude on specialty eggs, but my understanding</p> <p>8 is your position that specialty eggs are not</p> <p>9 part of this lawsuit. If that's the case I'm</p> <p>10 going to continue to lodge objections to any</p> <p>11 questions about specialty eggs, but you can go</p> <p>12 ahead and answer his question.</p> <p>13 BY MR. STUEVE:</p> <p>14 Q. Omega-3. How do you set the</p> <p>15 specialty egg price?</p> <p>16 <b>A. We would work with our CFO on our</b></p> <p>17 <b>cost. All the cost components going into</b></p> <p>18 <b>producing a specialty egg, including the feed</b></p> <p>19 <b>cost, the special feed to produce the Omega-3</b></p> <p>20 <b>egg. And then we take into consideration what</b></p> <p>21 <b>the packaging cost, depending on what carton,</b></p> <p>22 <b>what case it would be packed in. And then we</b></p>	<p style="text-align: right;">61</p> <p>1 we set, and then whether we see that margin or</p> <p>2 not depends on the marketplace.</p> <p>3 BY MR. STUEVE:</p> <p>4 Q. That's what I'm saying. When</p> <p>5 you're exercising your analysis as to what</p> <p>6 margin you're going to try to seek, what factors</p> <p>7 do you rely on?</p> <p>8 MR. MONICA: Same objection. You</p> <p>9 can answer.</p> <p>10 THE WITNESS: It would be -- if</p> <p>11 we're bidding on a new account it's past</p> <p>12 experience, knowing if we priced and weren't</p> <p>13 competitive and didn't get the business, in our</p> <p>14 mind, you know, we'll go through a scenario to</p> <p>15 think about what to price it the next time.</p> <p>16 There's no really -- we don't have a set margin.</p> <p>17 BY MR. STUEVE:</p> <p>18 Q. I'm not asking whether you have a</p> <p>19 set margin, but you keep saying depends on the</p> <p>20 marketplace. Are you -- how do you determine</p> <p>21 what the marketplace is willing to pay in a</p> <p>22 particular market?</p>

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<p style="text-align: right;">62</p> <p>1 MR. MONICA: We're still on 2 specialty eggs, counsel? 3 BY MR. STUEVE: 4 Q. Go ahead and answer my question. 5 MR. MONICA: Before you answer I 6 object. I want to know if we're on specialty 7 eggs. If you do I'm going to ask for a 8 continuing objection so I don't have to keep 9 objecting. 10 BY MR. STUEVE: 11 Q. You understand I'm talking about 12 specialty eggs? 13 A. Which eggs are we talking about? 14 Q. Omega-3. The ones we've been 15 talking about. 16 MR. MONICA: Same objection. You 17 can answer. 18 THE WITNESS: The -- what I mean 19 by the marketplace is, like I already said, if 20 we have past experience with bidding on 21 accounts, and depending on whether we were 22 successful or not, it gives us guidance on what</p>	<p style="text-align: right;">64</p> <p>1 MR. STUEVE: Yeah. 2 THE WITNESS: Could you ask it 3 again, please. 4 BY MR. STUEVE: 5 Q. Yeah. Kroger? 6 A. Yes. 7 Q. Where are the stores that you sell 8 Omega-3s? 9 A. Throughout the Midwest and, also, 10 Phoenix, Arizona. 11 Q. Okay. And where are the stores 12 throughout the Midwest? 13 A. Indiana, Kentucky, Tennessee, 14 Georgia, North Carolina, Ohio, Michigan, 15 Illinois, Virginia, West Virginia. That's some. 16 There could be others. 17 Q. And with respect to the Kroger 18 specialty egg, Omega-3, do you negotiate one 19 price for all of those locations? 20 A. For the Midwest there's a price. 21 It's a different price for Phoenix. 22 Q. Okay. And what is your Midwest</p>
<p style="text-align: right;">63</p> <p>1 to bid the next time. 2 BY MR. STUEVE: 3 Q. How often are you bidding your 4 Omega-3 specialty eggs? 5 MR. MONICA: Object to continuing 6 questions about specialty eggs when you claim 7 they are not relevant to the lawsuit. You can 8 answer the question. 9 THE WITNESS: It varies. Just 10 whenever customer bids come up. 11 BY MR. STUEVE: 12 Q. Is that on a -- so who's your 13 largest customer for Omega-3 eggs? 14 MR. MONICA: Same objection. You 15 can answer. 16 THE WITNESS: Kroger. 17 BY MR. STUEVE: 18 Q. And what stores do you sell your 19 specialty eggs -- your Omega-3 eggs to? 20 MR. MONICA: Same objection. 21 Counsel, will you give me a continuing objection 22 so I don't have to keep doing this?</p>	<p style="text-align: right;">65</p> <p>1 price? 2 MR. MONICA: Objection. 3 THE WITNESS: I don't know off the 4 top of my head. 5 BY MR. STUEVE: 6 Q. You understand that one of the 7 topics today was -- that I was going to ask you 8 about was the pricing of your specialty eggs? 9 MR. MONICA: No. Objection. It 10 was not stated. 11 THE WITNESS: No. I understand it 12 to be shell eggs and egg products. 13 BY MR. STUEVE: 14 Q. You're responsible for pricing 15 specialty eggs; is that correct, sir? 16 A. Yes. 17 Q. And do you know when the last time 18 you priced the specialty eggs for Kroger? 19 A. Maybe two years ago. 20 Q. All right. What do you understand 21 the margin is on that? 22 MR. MONICA: Objection. Assumes</p>

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<p style="text-align: right;">66</p> <p>1 facts not in evidence.</p> <p>2 THE WITNESS: I don't know. Off</p> <p>3 the top of my head, I don't know.</p> <p>4 BY MR. STUEVE:</p> <p>5 Q. What document would that be</p> <p>6 reflected in?</p> <p>7 <b>A. I'm not positive. There may be a</b></p> <p>8 <b>document in my office that would show that.</b></p> <p>9 Q. Well, I mean, you obviously would</p> <p>10 have negotiated a price; right, for the shell</p> <p>11 egg?</p> <p>12 <b>A. For which shell egg?</b></p> <p>13 Q. For Kroger, Omega-3 shell egg?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. It's a specialty egg. You would</p> <p>16 have negotiated a price specifically for that;</p> <p>17 is that correct?</p> <p>18 <b>A. Correct.</b></p> <p>19 Q. And that negotiated price, is it a</p> <p>20 formula then that's been in place for the last</p> <p>21 two years?</p> <p>22 MR. MONICA: Objection to the term</p>	<p style="text-align: right;">68</p> <p>1 <b>A. I would have to go to our CFO and</b></p> <p>2 <b>review it.</b></p> <p>3 Q. The document you're talking about?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And is there a central document</p> <p>6 that would have that information for all of your</p> <p>7 Omega-3 customers?</p> <p>8 <b>A. Today, no, but we would have to</b></p> <p>9 <b>create it.</b></p> <p>10 Q. How would you do that?</p> <p>11 MR. MONICA: Objection. You don't</p> <p>12 have to create any documents for counsel.</p> <p>13 BY MR. STUEVE:</p> <p>14 Q. How would you do that?</p> <p>15 <b>A. It would have to be with our CFO,</b></p> <p>16 <b>and review our costs and add the fact of other</b></p> <p>17 <b>components.</b></p> <p>18 Q. But at the time, though, that you</p> <p>19 bid, two years ago, the Kroger Omega-3 specialty</p> <p>20 egg, you had included in there a margin; is that</p> <p>21 correct?</p> <p>22 <b>A. Yes.</b></p>
<p style="text-align: right;">67</p> <p>1 "formula."</p> <p>2 THE WITNESS: The price has been</p> <p>3 in effect for the last two years. Correct.</p> <p>4 BY MR. STUEVE:</p> <p>5 Q. And what are the components of the</p> <p>6 price that you quoted Kroger?</p> <p>7 <b>A. Like I stated before, it would be</b></p> <p>8 <b>our -- we would look at our cost and our feed</b></p> <p>9 <b>formulas, the packaging, which is the cartons,</b></p> <p>10 <b>the cases, and the freight, and a margin.</b></p> <p>11 Q. Is that margin indicated somewhere</p> <p>12 in the agreement that you have with -- with</p> <p>13 Kroger?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Do they know what your margin is?</p> <p>16 <b>A. No.</b></p> <p>17 Q. But you do; right?</p> <p>18 <b>A. We could look that up. Off the</b></p> <p>19 <b>top of my head, I don't have it.</b></p> <p>20 Q. Right. So where would you go to</p> <p>21 determine what the margin is that you negotiated</p> <p>22 for the Kroger Omega-3 shell egg?</p>	<p style="text-align: right;">69</p> <p>1 Q. And if you wanted to know what</p> <p>2 that margin was, what document would you go to</p> <p>3 to refresh your recollection?</p> <p>4 MR. MONICA: Objection. Asked and</p> <p>5 answered. You can answer.</p> <p>6 THE WITNESS: I don't know if</p> <p>7 there is a document, today.</p> <p>8 BY MR. STUEVE:</p> <p>9 Q. Okay. But was there one at the</p> <p>10 time that you came up with the bid that would</p> <p>11 indicate what margin you used to bid the</p> <p>12 Omega-3?</p> <p>13 <b>A. No. Not necessarily a document.</b></p> <p>14 <b>Just information we put together and then put</b></p> <p>15 <b>the price down.</b></p> <p>16 Q. The documents that you utilize to</p> <p>17 come up with a price, would it reflect what</p> <p>18 margin you utilized?</p> <p>19 MR. MONICA: If you can recall.</p> <p>20 THE WITNESS: I don't recall. I</p> <p>21 don't think there's a document that would show</p> <p>22 that.</p>

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19 (Pages 70 to 73)

<p style="text-align: right;">70</p> <p>1 BY MR. STUEVE:</p> <p>2 Q. Do you believe that there was a</p> <p>3 document at the time that you did the pricing</p> <p>4 for Kroger?</p> <p>5 <b>A. As far as a document, not</b></p> <p>6 <b>necessarily a document. No.</b></p> <p>7 Q. How did you come up -- how did you</p> <p>8 do the calculations in which you used the</p> <p>9 factors that you identified and then you added a</p> <p>10 margin? Was that written down on an Excel</p> <p>11 spreadsheet or some other document that would in</p> <p>12 fact indicate how you came up with the price?</p> <p>13 MR. MONICA: Object to the form.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: We would have had</p> <p>16 the cost, the initial cost from the CFO, and</p> <p>17 then from that we would add our other costs to</p> <p>18 packaging and freight and then determine the</p> <p>19 price.</p> <p>20 BY MR. STUEVE:</p> <p>21 Q. And how did you determine the</p> <p>22 margin?</p>	<p style="text-align: right;">72</p> <p>1 <b>A. Like that, with the Omega-3 eggs.</b></p> <p>2 Q. How would the margin have been</p> <p>3 calculated? As a percentage of what?</p> <p>4 MR. MONICA: Objection.</p> <p>5 THE WITNESS: It would be a cost</p> <p>6 per dozen.</p> <p>7 BY MR. STUEVE:</p> <p>8 Q. Okay. There would have been a</p> <p>9 percentage of the cost per dozen would have made</p> <p>10 up the margin?</p> <p>11 MR. BARNES: Objection.</p> <p>12 Mischaracterizes what he just testified to.</p> <p>13 THE WITNESS: Right. We don't use</p> <p>14 a percentage. We use a per dozen price for</p> <p>15 margin.</p> <p>16 BY MR. STUEVE:</p> <p>17 Q. Right. So you figure out the</p> <p>18 cost. Then do you have a set margin, as far as</p> <p>19 cents, that's added onto that cost to come up</p> <p>20 with the price?</p> <p>21 <b>A. No.</b></p> <p>22 Q. So how do you calculate the</p>
<p style="text-align: right;">71</p> <p>1 MR. MONICA: Object to the form of</p> <p>2 the question.</p> <p>3 THE WITNESS: There's no --</p> <p>4 there's no set formula.</p> <p>5 BY MR. STUEVE:</p> <p>6 Q. Well, that's what I'm saying</p> <p>7 though. You did come up with a margin, though,</p> <p>8 right, for the Kroger Omega-3 specialty egg</p> <p>9 price; right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And did you -- what factors did</p> <p>12 you look at to come up with that margin?</p> <p>13 MR. MONICA: Object to the form.</p> <p>14 THE WITNESS: There's -- it's just</p> <p>15 what we decide we want to add to it.</p> <p>16 BY MR. STUEVE:</p> <p>17 Q. Was it 2 percent?</p> <p>18 MR. MONICA: Objection.</p> <p>19 THE WITNESS: We don't -- we don't</p> <p>20 price anything by percent.</p> <p>21 BY MR. STUEVE:</p> <p>22 Q. So what?</p>	<p style="text-align: right;">73</p> <p>1 margin?</p> <p>2 <b>A. It's -- on the Kroger Omega-3?</b></p> <p>3 Q. Uh-huh.</p> <p>4 <b>A. It's whatever we decide we want to</b></p> <p>5 <b>add.</b></p> <p>6 Q. When you say add, what are you</p> <p>7 adding?</p> <p>8 <b>A. A margin.</b></p> <p>9 Q. Is it in terms of cents per dozen?</p> <p>10 <b>A. Yes. That's what I said. Cents</b></p> <p>11 <b>per dozen.</b></p> <p>12 Q. Okay. And that cents per dozen</p> <p>13 that you're adding would be on top of the cost</p> <p>14 you've already been provided by your CFO; is</p> <p>15 that right?</p> <p>16 <b>A. Correct.</b></p> <p>17 Q. Now, do you look at -- do you know</p> <p>18 what Omega-3 eggs are being sold in the</p> <p>19 marketplace?</p> <p>20 MR. MONICA: Objection.</p> <p>21 THE WITNESS: No.</p> <p>22 BY MR. STUEVE:</p>

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20 (Pages 74 to 77)

<p style="text-align: right;">74</p> <p>1 Q. Do you evaluate that at all?</p> <p>2 MR. MONICA: Objection.</p> <p>3 THE WITNESS: To what they're</p> <p>4 sold, meaning what?</p> <p>5 BY MR. STUEVE:</p> <p>6 Q. Well, so, for example, Kroger's</p> <p>7 competitors, or do you look at what the Omega-3</p> <p>8 is being sold by their competitors?</p> <p>9 MR. MONICA: Objection.</p> <p>10 THE WITNESS: No. It's not</p> <p>11 relevant to us.</p> <p>12 BY MR. STUEVE:</p> <p>13 Q. Do you do any market analysis at</p> <p>14 all in determining the Omega-3 price that you're</p> <p>15 quoting to Kroger?</p> <p>16 MR. MONICA: Mr. Hinton, give him</p> <p>17 time to finish his question before you answer.</p> <p>18 Give me time to object.</p> <p>19 Could you read the question back,</p> <p>20 please.</p> <p>21 (The record was read as</p> <p>22 requested.)</p>	<p style="text-align: right;">76</p> <p>1 that would have been responsible for coming up</p> <p>2 with the price; correct, sir?</p> <p>3 <b>A. Myself or Amanda Jackson.</b></p> <p>4 Q. Okay. And in preparation for your</p> <p>5 deposition today did you review any of your</p> <p>6 pricing documents to prepare yourself for this</p> <p>7 deposition?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Did you review the -- your</p> <p>10 specialty egg pricing documents?</p> <p>11 MR. MONICA: Objection. Wasn't</p> <p>12 designated.</p> <p>13 THE WITNESS: No. Not</p> <p>14 specifically.</p> <p>15 BY MR. STUEVE:</p> <p>16 Q. Well, I mean did you review any</p> <p>17 specialty egg pricing documents in preparation</p> <p>18 of your deposition today?</p> <p>19 MR. MONICA: It wasn't one of your</p> <p>20 topics, Pat.</p> <p>21 MR. STUEVE: Keep saying that</p> <p>22 counsel, because we're going to go back to the</p>
<p style="text-align: right;">75</p> <p>1 MR. MONICA: Objection as to</p> <p>2 timeframe. Go ahead and answer.</p> <p>3 THE WITNESS: No.</p> <p>4 BY MR. STUEVE:</p> <p>5 Q. Okay. When's the last time you</p> <p>6 bid on an Omega-3 specialty egg sale?</p> <p>7 MR. MONICA: Objection. As to</p> <p>8 Kroger?</p> <p>9 MR. STUEVE: No.</p> <p>10 BY MR. STUEVE:</p> <p>11 Q. In general. When's the last time</p> <p>12 you bid on?</p> <p>13 <b>A. To any customer?</b></p> <p>14 Q. Yeah. Uh-huh.</p> <p>15 <b>A. I'm not sure.</b></p> <p>16 Q. Would it have been the last</p> <p>17 two months?</p> <p>18 MR. MONICA: Objection. Asked and</p> <p>19 answered. You can answer it.</p> <p>20 THE WITNESS: It's possible.</p> <p>21 BY MR. STUEVE:</p> <p>22 Q. And you would have been the one</p>	<p style="text-align: right;">77</p> <p>1 Court and you're going to pay for me to come</p> <p>2 back.</p> <p>3 MR. MONICA: It's not going to</p> <p>4 happen.</p> <p>5 MR. STUEVE: Yeah. It will. You</p> <p>6 were put on clear notice.</p> <p>7 MR. MONICA: Show me which topic</p> <p>8 suggests that.</p> <p>9 BY MR. STUEVE:</p> <p>10 Q. Sir, did you review any shell --</p> <p>11 <b>A. If it would have been on a pricing</b></p> <p>12 <b>letter.</b></p> <p>13 Q. A pricing letter. What would have</p> <p>14 been in the pricing letter?</p> <p>15 <b>A. For which customer?</b></p> <p>16 Q. I don't know what you're talking</p> <p>17 about when you say a pricing letter, sir, so I'm</p> <p>18 asking you what do you mean by a pricing letter?</p> <p>19 <b>A. It would be a pricing letter or a</b></p> <p>20 <b>bid form for a customer.</b></p> <p>21 Q. Okay. And the bid form, what</p> <p>22 would be contained on the bid form?</p>

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21 (Pages 78 to 81)

<p style="text-align: right;">78</p> <p>1           <b>A. It would be the items that the</b>  2           <b>customer is wishing to buy, along with our price</b>  3           <b>for those items.</b>  4           Q. And do you have a bid form for all  5           of your specialty egg bids?  6           <b>A. No.</b>  7           Q. Why would you not have one for the  8           specialty eggs that you bid?  9           MR. MONICA: Objection. Calls for  10          speculation.  11          THE WITNESS: There would be --  12          not all customers send outbid forms.  13          BY MR. STUEVE:  14          Q. Okay. So this would be a form  15          that you would get from the customer?  16          <b>A. Yes.</b>  17          Q. But internally what document would  18          you prepare in order for you to submit that bid?  19          <b>A. We would prepare a pricing letter.</b>  20          Q. Okay. And is that -- that pricing  21          letter, is that an internal document or is that  22          a document shared with the customer?</p>	<p style="text-align: right;">80</p> <p>1           <b>then we would calculate the price from there.</b>  2           Q. And what -- within the last couple  3           of months what margin did you use?  4           <b>A. There was no set margin.</b>  5           Q. Give me a range of the margin that  6           you used?  7           MR. MONICA: Objection. If you  8           know.  9           THE WITNESS: On which eggs?  10          BY MR. STUEVE:  11          Q. The Omega specialty eggs.  12          <b>A. On Omega specialty eggs the margin</b>  13          <b>could range from approximately 10 to \$0.30 a</b>  14          <b>dozen.</b>  15          Q. What pricing documents did you  16          review in preparation for your deposition today?  17          <b>A. What specific pricing documents?</b>  18          Q. Yeah. Uh-huh.  19          MR. MONICA: Just tell him to the  20          best of your recollection what you reviewed.  21          THE WITNESS: I reviewed some  22          pricing letters.</p>
<p style="text-align: right;">79</p> <p>1           <b>A. It would be both. Some are just</b>  2           <b>internal. Some could be shared.</b>  3           Q. Do those pricing letters, the  4           internal ones, do they indicate what margin  5           you've built into the price?  6           <b>A. No.</b>  7           Q. What document would indicate what  8           margin you built into the price?  9           MR. MONICA: Objection. Asked and  10          answered about three times now. You can go  11          ahead and answer.  12          THE WITNESS: On the price of  13          what?  14          BY MR. STUEVE:  15          Q. On the price you indicated you  16          believe in the last couple of months you may  17          have submitted a bid on specialty eggs Omega-3.  18          Do you recall that?  19          <b>A. There would be no document on</b>  20          <b>those for the last few months. We would --</b>  21          Q. Go ahead.  22          <b>A. I said we would have the cost and</b></p>	<p style="text-align: right;">81</p> <p>1           BY MR. STUEVE:  2           Q. Relating to what type of product?  3           <b>A. Well, some shell eggs, as well as</b>  4           <b>egg products.</b>  5           Q. In what timeframe were these  6           pricing letters prepared?  7           <b>A. The one -- as far as?</b>  8           MR. MONICA: Mr. Hinton, just tell  9           him what you recall. He's asking for the dates  10          the documents were prepared.  11          MR. STUEVE: Counsel, the witness  12          knows he's supposed to testify about what he  13          recalls. I request you stop instructing the  14          witness how to answer. Just answer my question,  15          sir.  16          MR. MONICA: Object. Object to  17          the form of the question.  18          THE WITNESS: On pricing letters I  19          have a file of all the pricing letters in my  20          office. Most of them. Not all the new ones,  21          but -- and I look at pricing letters on pretty  22          much a regular basis as involves customers.</p>



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22 (Pages 82 to 85)

<p style="text-align: right;">82</p> <p>1 To say specifically the ones that</p> <p>2 I've looked at recently, I can't say exactly</p> <p>3 which ones.</p> <p>4 BY MR. STUEVE:</p> <p>5 Q. When did you prepare for your</p> <p>6 deposition today?</p> <p>7 <b>A. For today?</b></p> <p>8 Q. Yeah.</p> <p>9 <b>A. Over the last, I don't know how</b></p> <p>10 <b>many months.</b></p> <p>11 Q. How many times -- when's the first</p> <p>12 time you met with counsel concerning your</p> <p>13 deposition today?</p> <p>14 <b>A. It's been several years ago when I</b></p> <p>15 <b>first met counsel. Specifically -- what's it</b></p> <p>16 <b>called.</b></p> <p>17 Q. The topics?</p> <p>18 <b>A. The document?</b></p> <p>19 Q. Uh-huh.</p> <p>20 (Exhibit Number 517 was previously</p> <p>21 marked for identification.)</p> <p>22 BY MR. STUEVE:</p>	<p style="text-align: right;">84</p> <p>1 <b>the first meeting.</b></p> <p>2 <b>In regards to this document?</b></p> <p>3 Q. Yes. Uh-huh.</p> <p>4 <b>A. Really, Molly.</b></p> <p>5 Q. And that was a day long meeting;</p> <p>6 is that correct, sir?</p> <p>7 <b>A. The first meeting.</b></p> <p>8 Q. Did you review any documents</p> <p>9 during that meeting?</p> <p>10 <b>A. Documents, what kind of documents?</b></p> <p>11 Q. Any documents?</p> <p>12 <b>A. I don't recall the specific</b></p> <p>13 <b>documents. We did review some documents. I</b></p> <p>14 <b>don't remember exactly what they were.</b></p> <p>15 Q. All right. When's the next</p> <p>16 meeting you had with counsel concerning the</p> <p>17 topics that are set fort in Exhibit 517?</p> <p>18 <b>A. Last week.</b></p> <p>19 Q. Where was that meeting?</p> <p>20 <b>A. Rose Acre office.</b></p> <p>21 Q. Who was present for that meeting?</p> <p>22 <b>A. Molly.</b></p>
<p style="text-align: right;">83</p> <p>1 Q. I'm going to show you what's</p> <p>2 previously been marked -- I'll write the number</p> <p>3 on there, it's 517. When did you meet with</p> <p>4 counsel as to the topics you were going to</p> <p>5 testify to?</p> <p>6 MR. MONICA: I caution the witness</p> <p>7 you can certainly tell him when you met with</p> <p>8 counsel, but don't disclose of the testimony --</p> <p>9 sorry -- the substance of the discussions.</p> <p>10 THE WITNESS: A couple months ago.</p> <p>11 BY MR. STUEVE:</p> <p>12 Q. Where was that?</p> <p>13 <b>A. Rose Acre office in Seymour,</b></p> <p>14 <b>Indiana.</b></p> <p>15 Q. How long did that meeting last?</p> <p>16 <b>A. For a day.</b></p> <p>17 Q. Who did you meet with there?</p> <p>18 <b>A. I met with Molly.</b></p> <p>19 Q. Ms. Crabtree, who is here today?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Anyone else?</p> <p>22 <b>A. You were briefly, I believe, at</b></p>	<p style="text-align: right;">85</p> <p>1 Q. Anyone else?</p> <p>2 <b>A. Joe Miller.</b></p> <p>3 Q. Okay. And did you review</p> <p>4 documents at that meeting last week?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. All right. And what documents did</p> <p>7 you review at that meeting?</p> <p>8 <b>A. I reviewed this document.</b></p> <p>9 Q. Okay. Did you review any</p> <p>10 documents other than Exhibit 517?</p> <p>11 <b>A. I think there were some other</b></p> <p>12 <b>documents. I don't remember exactly what they</b></p> <p>13 <b>were.</b></p> <p>14 Q. I'm asking you about the meeting</p> <p>15 last week?</p> <p>16 <b>A. Right.</b></p> <p>17 Q. And do you recall whether or not</p> <p>18 you reviewed any pricing letters?</p> <p>19 <b>A. No.</b></p> <p>20 Q. You did not?</p> <p>21 <b>A. No. Not in the meeting with</b></p> <p>22 <b>Molly. No.</b></p>

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23 (Pages 86 to 89)

<p style="text-align: right;">86</p> <p>1 Q. Okay. And do you remember -- do</p> <p>2 you remember any type of documents you reviewed</p> <p>3 last week?</p> <p>4 <b>A. I remember this document.</b></p> <p>5 Q. Anything else other than</p> <p>6 Exhibit 517 that you recall reviewing?</p> <p>7 <b>A. Like I said, there, could have</b></p> <p>8 <b>been some other documents, but I remember this</b></p> <p>9 <b>one specifically.</b></p> <p>10 Q. Did you do any preparation after</p> <p>11 that meeting?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. When did you do that?</p> <p>14 <b>A. When?</b></p> <p>15 Q. Yeah.</p> <p>16 <b>A. I did that basically every day</b></p> <p>17 <b>since that meeting.</b></p> <p>18 Q. What did you do every day since</p> <p>19 that meeting to prepare for your deposition?</p> <p>20 <b>A. I discussed topics that were in</b></p> <p>21 <b>this Exhibit 517 with different people in Rose</b></p> <p>22 <b>Acre to get myself -- if I didn't know some of</b></p>	<p style="text-align: right;">88</p> <p>1 <b>actually, it probably would have been Wednesday.</b></p> <p>2 <b>I'm sorry. Wednesday through today. I spoke</b></p> <p>3 <b>with Amanda on Wednesday and Matt -- Matt on</b></p> <p>4 <b>Thursday and Friday I spoke with him.</b></p> <p>5 <b>I spoke with David Hurd on Friday.</b></p> <p>6 <b>And I spoke with Mark Whittington</b></p> <p>7 <b>today.</b></p> <p>8 Q. And what did you speak with Mark</p> <p>9 Whittington about?</p> <p>10 <b>A. About the -- just reviewed our</b></p> <p>11 <b>list of top ten customers and over time and how</b></p> <p>12 <b>it changed.</b></p> <p>13 Q. And what is his position with Rose</p> <p>14 Acre?</p> <p>15 <b>A. Today he's VP of risk management.</b></p> <p>16 Q. And why did you ask him for that</p> <p>17 information?</p> <p>18 <b>A. Because Mark, his role over the</b></p> <p>19 <b>years, he's been responsible for accounts</b></p> <p>20 <b>receivable. And every year he puts together a</b></p> <p>21 <b>list of our top ten customers.</b></p> <p>22 Q. Is that disseminated within the</p>
<p style="text-align: right;">87</p> <p>1 <b>the topics I wanted to make sure I was educated</b></p> <p>2 <b>on them.</b></p> <p>3 Q. Okay. And who did you meet with?</p> <p>4 <b>A. Any certain topic or everyone I</b></p> <p>5 <b>met with?</b></p> <p>6 Q. Who did you meet with?</p> <p>7 <b>A. At Rose Acres?</b></p> <p>8 Q. Yeah.</p> <p>9 <b>A. I met with Amanda Jackson, Matt</b></p> <p>10 <b>Nieble, David Hurd, and Mark Whittington.</b></p> <p>11 Q. Anyone else?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Would this have been the latter</p> <p>14 part of last week then?</p> <p>15 <b>A. Yes. The latter part of last</b></p> <p>16 <b>week.</b></p> <p>17 Q. So today's Monday?</p> <p>18 <b>A. It would have been -- it would</b></p> <p>19 <b>have been Thursday through today.</b></p> <p>20 Q. And who -- when did you meet with</p> <p>21 Amanda Jackson?</p> <p>22 <b>A. I spoke with Amanda -- well,</b></p>	<p style="text-align: right;">89</p> <p>1 company?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay. Is that broken out by shell</p> <p>4 egg and egg products?</p> <p>5 <b>A. The actual list he puts out, it</b></p> <p>6 <b>includes all customers, which includes shell</b></p> <p>7 <b>eggs, egg products, soybean oil, and soybean</b></p> <p>8 <b>meal.</b></p> <p>9 Q. What else did you talk to Mark</p> <p>10 Whittington about?</p> <p>11 <b>A. That's all.</b></p> <p>12 Q. Okay. And what about David Hurd?</p> <p>13 <b>A. I talked to him about flock</b></p> <p>14 <b>management.</b></p> <p>15 Q. And what specifically?</p> <p>16 <b>A. Our backfilling practices.</b></p> <p>17 Q. And what did he tell you?</p> <p>18 <b>A. In regards to?</b></p> <p>19 Q. Backfilling?</p> <p>20 <b>A. Backfilling?</b></p> <p>21 Q. Uh-huh.</p> <p>22 <b>A. What specifically do you want to</b></p>



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<p style="text-align: right;">90</p> <p>1 <b>know?</b></p> <p>2 Q. What did he tell you?</p> <p>3 <b>A. Is there a specific question?</b></p> <p>4 Q. No. The specific question is you</p> <p>5 spoke to David Hurd about backfilling practices.</p> <p>6 I'm asking you, what did he tell you?</p> <p>7 <b>A. All right. He told me that -- I</b></p> <p>8 <b>asked him specifically about backfilling and how</b></p> <p>9 <b>it related to the UEP Certified Animal Welfare</b></p> <p>10 <b>Program. And he told me that prior to us being</b></p> <p>11 <b>part of UEP Certified we had a general practice</b></p> <p>12 <b>that we backfilled houses.</b></p> <p>13 <b>And he told me under the UEP</b></p> <p>14 <b>Certified Program that the scientific committee</b></p> <p>15 <b>determined that backfilling wasn't the best</b></p> <p>16 <b>animal husbandry practice for the birds, and</b></p> <p>17 <b>that they -- and because that they felt like by</b></p> <p>18 <b>combining ages of birds into a house, and even</b></p> <p>19 <b>in the same cage, was that it was not the best</b></p> <p>20 <b>animal welfare practice. And so that under the</b></p> <p>21 <b>UEP guidelines that we had to change our</b></p> <p>22 <b>backfilling practices and the backfilling would</b></p>	<p style="text-align: right;">92</p> <p>1 THE WITNESS: I didn't ask him</p> <p>2 that specific direct question. No.</p> <p>3 BY MR. STUEVE:</p> <p>4 Q. Just so the record is clear, he</p> <p>5 did not tell you that Rose Acre stopped</p> <p>6 backfilling when they joined the UEP Certified</p> <p>7 Program; correct?</p> <p>8 <b>A. No. But he told me it was part of</b></p> <p>9 <b>the program.</b></p> <p>10 Q. And you did not ask him whether or</p> <p>11 not Rose Acre stopped backfilling; is that</p> <p>12 correct?</p> <p>13 <b>A. Well, he told me the only way that</b></p> <p>14 <b>we could backfill is if it's a catastrophic</b></p> <p>15 <b>event. So by him telling me that, he was</b></p> <p>16 <b>telling me we don't backfill unless there is a</b></p> <p>17 <b>catastrophic event. And I asked him what that</b></p> <p>18 <b>definition was.</b></p> <p>19 Q. So I just want to make sure I</p> <p>20 understand what your testimony is. Is it your</p> <p>21 testimony that Mr. Hurd told you that they</p> <p>22 stopped backfilling when they joined the UEP</p>
<p style="text-align: right;">91</p> <p>1 <b>only be allowed under a catastrophic event.</b></p> <p>2 Q. When you spoke with David Hurd on</p> <p>3 Friday was there anyone else present when you</p> <p>4 spoke with him?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Did he tell you whether or not</p> <p>7 Rose Acre stopped the backfilling when they</p> <p>8 joined the UEP Certified Program?</p> <p>9 <b>A. He told me that part of the</b></p> <p>10 <b>certified program, once we started on the</b></p> <p>11 <b>program that we had to adhere to the guidelines</b></p> <p>12 <b>of the UEP Certified Program; correct.</b></p> <p>13 Q. And so it was your understanding</p> <p>14 Rose Acre stopped backfilling at that time?</p> <p>15 <b>A. I didn't specifically ask David,</b></p> <p>16 <b>but he told me that that was part of the</b></p> <p>17 <b>program.</b></p> <p>18 Q. But he did not tell you whether or</p> <p>19 not Rose Acre stopped backfilling; is that</p> <p>20 correct?</p> <p>21 <b>A. I didn't --</b></p> <p>22 MR. MONICA: You can answer.</p>	<p style="text-align: right;">93</p> <p>1 Certified Program?</p> <p>2 MR. MONICA: Objection. Asked and</p> <p>3 answered about three times. You can answer.</p> <p>4 THE WITNESS: I'll say it again.</p> <p>5 He told me that under the program,</p> <p>6 the only way we can backfill is a catastrophic</p> <p>7 event.</p> <p>8 BY MR. STUEVE:</p> <p>9 Q. Right. I understand that's what</p> <p>10 he told you the guidelines required. What I'm</p> <p>11 asking you, did you ask him -- let me ask you</p> <p>12 this way.</p> <p>13 Did you ask him whether or not</p> <p>14 Rose Acre stopped backfilling after joining the</p> <p>15 UEP Certified Program?</p> <p>16 MR. MONICA: Objection. Asked and</p> <p>17 answered. You can answer.</p> <p>18 THE WITNESS: No. I did not ask</p> <p>19 him that specific question.</p> <p>20 BY MR. STUEVE:</p> <p>21 Q. All right. Now, were you aware</p> <p>22 that there were certain requirements of the UEP</p>

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<p style="text-align: right;">94</p> <p>1 Certified Program that Rose Acre did not comply 2 with?</p> <p>3 MR. MONICA: Objection. Assumes 4 facts not in evidence.</p> <p>5 THE WITNESS: Ask that again, 6 please.</p> <p>7 MR. STUEVE: Read it back to him. 8 (The record was read as 9 requested.)</p> <p>10 MR. MONICA: Same objection. 11 THE WITNESS: No. I was not aware 12 of that.</p> <p>13 BY MR. STUEVE:</p> <p>14 Q. Okay. Were you aware, prior to 15 your conversation with Mr. Hurd, that there was 16 a prohibition against backfilling under the UEP 17 Certified Program?</p> <p>18 <b>A. I don't understand what the 19 question is.</b></p> <p>20 Q. Prior to your conversation with 21 Mr. Hurd, when you were asking him about 22 backfilling, prior to that conversation were you</p>	<p style="text-align: right;">96</p> <p>1 you ask Mr. Hurd this past Friday about molting 2 practices?</p> <p>3 <b>A. About the molting practices as it 4 pertained to the UEP Guidelines.</b></p> <p>5 Q. And what did you ask him?</p> <p>6 <b>A. Just what the guidelines were and 7 how it affected what we did.</b></p> <p>8 Q. Okay. What did he tell you about 9 the guidelines as it relates to molting?</p> <p>10 <b>A. He told me that part of the UEP 11 Guidelines it requires a -- the molt, you have 12 to continue to feed the birds a diet during the 13 molting.</b></p> <p>14 Q. Okay. Anything else that he told 15 you?</p> <p>16 <b>A. He told me that the reason they 17 required the diet was that the scientific 18 committee felt that it would be too much of a 19 strain on the birds not to totally restrict feed 20 during the molt.</b></p> <p>21 Q. Did he tell you anything else?</p> <p>22 <b>A. No.</b></p>
<p style="text-align: right;">95</p> <p>1 aware that the UEP Certified Guidelines 2 prohibited backfilling?</p> <p>3 MR. MONICA: Objection. Misstates 4 the guidelines. You can answer the question.</p> <p>5 THE WITNESS: It was my general 6 knowledge that there was a backfilling provision 7 in the UEP Guidelines.</p> <p>8 BY MR. STUEVE:</p> <p>9 Q. But you didn't know what it was?</p> <p>10 <b>A. It's not my area. I didn't deal 11 with that.</b></p> <p>12 Q. Okay. Did you talk to him about 13 anything else other than the backfilling issue?</p> <p>14 <b>A. Yes. Molting.</b></p> <p>15 Q. Okay. Prior to your conversation 16 with Mr. Hurd did you have any responsibility 17 for the molting practices of Rose Acre?</p> <p>18 <b>A. No. I did not.</b></p> <p>19 Q. Did you have any supervisory role, 20 at all, in the molting practices?</p> <p>21 <b>A. I didn't -- I never have.</b></p> <p>22 Q. Okay. And what specifically did</p>	<p style="text-align: right;">97</p> <p>1 Q. Did he tell you whether or not -- 2 whether or not Rose Acre complied with that 3 guideline requirement?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Did you ask him that question?</p> <p>6 <b>A. He told me.</b></p> <p>7 Q. What did he tell you?</p> <p>8 <b>A. He told me that when we molt now 9 that we feed a reduced ration to the birds.</b></p> <p>10 Q. But did he ask you -- did you ask 11 him whether or not during the time Rose Acre has 12 been UEP Certified, whether or not it's complied 13 with that requirement?</p> <p>14 MR. MONICA: Objection. Asked and 15 answered. You can answer it.</p> <p>16 THE WITNESS: He told me that we 17 changed our practices because of the UEP 18 Guidelines.</p> <p>19 BY MR. STUEVE:</p> <p>20 Q. What I'm asking you, though, is, 21 did he tell you whether or not, while they've 22 been UEP Certified, whether or not they have</p>

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<p style="text-align: right;">98</p> <p>1 complied with that requirement?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And what did he tell you?</p> <p>4 <b>A. That we have.</b></p> <p>5 Q. All right. Were you aware of the</p> <p>6 fact Rose Acre's own internal documents indicate</p> <p>7 there have been periods where they have not</p> <p>8 complied with that requirement?</p> <p>9 MR. MONICA: Objection it is not</p> <p>10 true. Assumes facts not in evidence.</p> <p>11 THE WITNESS: I don't know what</p> <p>12 you'd be referring to.</p> <p>13 BY MR. STUEVE:</p> <p>14 Q. You wouldn't know one way or the</p> <p>15 other, personally, because you didn't have any</p> <p>16 involvement with the molting practices of Rose</p> <p>17 Acre; correct, sir?</p> <p>18 <b>A. That is correct. I am not</b></p> <p>19 <b>involved in molting practices of Rose Acres.</b></p> <p>20 Q. What else did you talk to Mr. Hurd</p> <p>21 about?</p> <p>22 <b>A. That was all.</b></p>	<p style="text-align: right;">100</p> <p>1 <b>A. We met for a couple hours.</b></p> <p>2 Q. And was there anyone else present?</p> <p>3 <b>A. Not in that meeting, no. I had</b></p> <p>4 <b>another discussion, also, with Lindsey Schepman</b></p> <p>5 <b>about AWG.</b></p> <p>6 Q. And was Mr. Nieble present in that</p> <p>7 one?</p> <p>8 <b>A. No. That was just Lindsey and I.</b></p> <p>9 Q. Okay. So let's focus on</p> <p>10 Mr. Nieble, your meeting with him last Thursday.</p> <p>11 Was there anybody else present in that meeting?</p> <p>12 <b>A. It was on Friday.</b></p> <p>13 Q. I'm sorry. I had Thursday and</p> <p>14 Friday?</p> <p>15 <b>A. I think I had a brief phone</b></p> <p>16 <b>conversation on Thursday, but Friday's when I</b></p> <p>17 <b>met.</b></p> <p>18 Q. All right. And you met with him</p> <p>19 in person?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. And what did he tell you about</p> <p>22 AWG?</p>
<p style="text-align: right;">99</p> <p>1 Q. Okay. What about Mr. Nieble?</p> <p>2 <b>A. I talked to him at our specific</b></p> <p>3 <b>relationship with AWG.</b></p> <p>4 Q. Have you had any contact with AWG?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Okay. And what did you ask him</p> <p>7 specifically about AWG?</p> <p>8 <b>A. I asked him -- there's several</b></p> <p>9 <b>things I asked him about.</b></p> <p>10 <b>I asked him as -- he's an account</b></p> <p>11 <b>manager with AWG, so I asked him about</b></p> <p>12 <b>everything he could tell me with regards to AWG</b></p> <p>13 <b>that he could remember, from the time he had</b></p> <p>14 <b>first contact with AWG.</b></p> <p>15 Q. Was that his account he was</p> <p>16 responsible for?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Did anyone else have</p> <p>19 responsibility for AWG besides him?</p> <p>20 <b>A. Amanda Jackson.</b></p> <p>21 Q. Okay. And how long was your</p> <p>22 meeting with Mr. Nieble about contact with AWG?</p>	<p style="text-align: right;">101</p> <p>1 <b>A. All right. I discussed his</b></p> <p>2 <b>visit -- his first visit to AWG, along with</b></p> <p>3 <b>Amanda Jackson, and what all took place on that</b></p> <p>4 <b>visit.</b></p> <p>5 <b>They met with Linda at the AWG</b></p> <p>6 <b>headquarters and was discussing the -- basically</b></p> <p>7 <b>the setup of the business that we were awarded,</b></p> <p>8 <b>which was the warehouses in Kansas City and</b></p> <p>9 <b>Nashville, Tennessee. And that evolved around</b></p> <p>10 <b>specifications. And they got into -- they</b></p> <p>11 <b>reviewed the specs that were required for AWG</b></p> <p>12 <b>and -- I asked him about the different -- what</b></p> <p>13 <b>all was involved in the specifications. And</b></p> <p>14 <b>basically it was that they met the shell egg</b></p> <p>15 <b>quality standards of USDA. And there's</b></p> <p>16 <b>different things that go into the spec on color</b></p> <p>17 <b>of shell and appearance and grade quality. UEP</b></p> <p>18 <b>certification was part of it. And then they</b></p> <p>19 <b>discussed the packaging and how that would work.</b></p> <p>20 <b>The packaging for AWG -- AWG, so</b></p> <p>21 <b>they control the packaging, and that they</b></p> <p>22 <b>would -- we would have to buy the egg cartons</b></p>

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<p style="text-align: right;">102</p> <p>1 from AWG from their designated supplier, which  2 is FPI, Foam Packaging, in Mississippi. And  3 Linda gave Matt a contact person within AWG that  4 he was to contact to help work out the packaging  5 details, because they were going to -- the  6 cartons had the prior -- the current supplier's  7 legal line information on it, and they need to  8 change that to our legal line. So Linda gave  9 Matt the contact person and who he was supposed  10 to contact to work the details of that so they  11 could get the packaging set up with our name.  12 They discussed the -- AWG has a --  13 had requested that we do some ceiling pricing  14 forecasts for them that we would sell them off  15 of. And they discussed how that program would  16 work.  17 And then I'm -- he said there was  18 just general discussion about transportation and  19 that AWG wanted to pick up the eggs at the farm  20 and just, you know, kind of some general  21 information on how that would, you know, how to  22 set that up and at the farm locations.</p>	<p style="text-align: right;">104</p> <p>1 BY MR. STUEVE:  2 Q. We broke to change the videotape  3 here. You were telling me about your  4 conversation with Mr. Nieble; is that correct,  5 last Friday. Do you recall that testimony?  6 A. Yes.  7 Q. All right. You appear to be  8 describing a visit that would have happened  9 recently concerning the 2013 bid process; is  10 that correct?  11 A. Yes. Yes.  12 Q. All right. And so this visit,  13 would this have been after -- that Mr. Nieble  14 was sharing with you, would that have been after  15 Rose Acre had been selected to supply commodity  16 eggs to the Kansas City location?  17 A. To the Kansas City and the  18 Nashville location.  19 Q. Okay. But this would have been --  20 this visit would have been after the selection  21 process?  22 A. Yes.</p>
<p style="text-align: right;">103</p> <p>1 And then Linda took Amanda and  2 Matt, they left the office and went out to a --  3 she said she was taking one of their members to  4 a Price Chopper store. So they went into the  5 Price Chopper with Linda, and they went to the  6 dairy case, and she was showing them the  7 different packaging, the cartons, you know, just  8 so they could see what the all the cartons  9 looked like and what we would be packing.  10 Let's see. That was -- that's  11 most of the conversation.  12 MR. STUEVE: Okay. We got to  13 change the tape.  14 MR. MONICA: Can we take a break?  15 MR. STUEVE: Yeah.  16 THE VIDEOGRAPHER: The time is  17 approximately 10:55 a.m., and we're going off  18 the record.  19 (A brief recess was taken.)  20 THE VIDEOGRAPHER: This is the  21 start of media unit number two. The time is  22 11:12 a.m., and we are back on the record.</p>	<p style="text-align: right;">105</p> <p>1 Q. Okay. Did he tell you about any  2 other contact, other than this visit, that he  3 would have had with AWG?  4 A. Him, personally -- no. This would  5 have been his first contact.  6 Q. Okay. So he described -- to the  7 best of your recollection, what he told you,  8 you've described that; is that correct?  9 A. Yes.  10 Q. All right. Now, you also said  11 that -- let me ask you this. Did you talk to  12 Mr. Nieble about anything else, other than his  13 visit to AWG after the selection process was  14 completed, that you can recall?  15 A. Pertaining to AWG, no. The  16 conversation, I mean, I talk to Mr. Nieble on a  17 lot of things but.  18 Q. Okay. So let's move to the next  19 topic. What else did you talk to him about last  20 Friday, in addition to the discussion about his  21 visit to AWG?  22 A. The fact that the Hoosiers lost in</p>

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<p style="text-align: right;">106</p> <p>1 the big ten tournament.</p> <p>2 Q. Okay. I'm sure that came up</p> <p>3 first?</p> <p>4 A. It might have, because I was</p> <p>5 probably harassing him about it.</p> <p>6 Q. Yeah. Okay. You support?</p> <p>7 A. Pardon?</p> <p>8 Q. You're a fan of?</p> <p>9 A. Purdue.</p> <p>10 Q. Purdue. Okay. You guys don't</p> <p>11 have a lot to talk about.</p> <p>12 A. No. We lost, too, but our game</p> <p>13 was closer.</p> <p>14 Q. Okay. So, but as it pertains to</p> <p>15 preparation for your deposition today, was there</p> <p>16 any other -- any other topics you talked to</p> <p>17 Mr. Nieble about last Friday?</p> <p>18 A. No. For preparation of today that</p> <p>19 was the main topic.</p> <p>20 Q. You said you also spoke with</p> <p>21 Amanda Jackson; is that right?</p> <p>22 A. Yes.</p>	<p style="text-align: right;">108</p> <p>1 A. Yes.</p> <p>2 Q. Do you remember anything specific</p> <p>3 that she recalled?</p> <p>4 A. We talked about the packaging and</p> <p>5 how that would work. We talked about the way</p> <p>6 the promotion -- not promotion. The way we</p> <p>7 would guarantee AWG a ceiling price during</p> <p>8 different periods of the year and how that was</p> <p>9 going to work.</p> <p>10 The transportation and just, you</p> <p>11 know, who's going to be doing the transportation</p> <p>12 piece. Just general data just from the meeting.</p> <p>13 That's the main things.</p> <p>14 Q. Do you recall anything else about</p> <p>15 your discussion with Amanda?</p> <p>16 A. No. No. Not off the top of my</p> <p>17 head.</p> <p>18 Q. Okay. So you talked to her about</p> <p>19 a visit that you and Amanda had with AWG before</p> <p>20 you submitted your bid; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. All right. Was there anyone else</p>
<p style="text-align: right;">107</p> <p>1 Q. And what did you speak to her</p> <p>2 about?</p> <p>3 A. Similar topic to what I spoke to</p> <p>4 Mr. Nieble about. She was at the meeting, as</p> <p>5 well, and I spoke to her about the visit and</p> <p>6 just anything relating to AWG that she could</p> <p>7 remember, you know, and wanted to talk about to</p> <p>8 help me prepare.</p> <p>9 Q. What else did she remember</p> <p>10 concerning her contact with AWG, other than the</p> <p>11 visit after the selection process?</p> <p>12 A. The first visit. Amanda and I,</p> <p>13 prior to being selected to be a supplier to AWG,</p> <p>14 Amanda and I visited AWG during the bid process.</p> <p>15 Q. Okay. What did she share with you</p> <p>16 about her recollection of that?</p> <p>17 A. Nothing. I guess nothing I didn't</p> <p>18 already know, because I was at the meeting, as</p> <p>19 well, with her, and it was just kind of how our</p> <p>20 meeting went the different topics we discussed</p> <p>21 at the meeting with Linda and Scott.</p> <p>22 Q. Scott Ritchie; is that right?</p>	<p style="text-align: right;">109</p> <p>1 at that meeting from Rose Acre besides the two</p> <p>2 of you?</p> <p>3 A. No.</p> <p>4 Q. All right. And had you met either</p> <p>5 Linda Whiteside or Scott Ritchie prior to that</p> <p>6 meeting?</p> <p>7 A. No. On our prior visits with AWG</p> <p>8 we met with other individuals.</p> <p>9 Q. Okay. Had you had prior visits to</p> <p>10 AWG?</p> <p>11 A. Yes.</p> <p>12 Q. All right. Do you recall when</p> <p>13 your first visit was to AWG?</p> <p>14 A. 2006.</p> <p>15 Q. All right. And was that prior to</p> <p>16 submitting a bid concerning commodity eggs?</p> <p>17 A. Yes.</p> <p>18 Q. All right. And what do you recall</p> <p>19 about that visit?</p> <p>20 A. The -- Lindsey Schepman and</p> <p>21 myself.</p> <p>22 Q. Okay.</p>

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<p style="text-align: right;">110</p> <p>1       <b>A. Were on the visit. And it was to</b>  2       <b>do with all their -- AWG was putting out a bid</b>  3       <b>for all their shell eggs, commodity and</b>  4       <b>specialty eggs.</b>  5       Q. Okay.  6       <b>A. And that visit I don't remember</b>  7       <b>everyone that was in the meeting, but I remember</b>  8       <b>Joyce Owens, I believe is her name, Owens, was</b>  9       <b>the main contact then that was -- that had asked</b>  10       <b>us, you know, to come out for a visit to talk</b>  11       <b>about their egg program.</b>  12       Q. And did you go to their  13       headquarters there in Kansas City, Kansas?  14       <b>A. I went to their headquarters in</b>  15       <b>Kansas City. I get confused about Kansas and</b>  16       <b>Missouri and which -- since there's two Kansas</b>  17       <b>Cities.</b>  18       Q. You remember it was Kansas City?  19       <b>A. I remember it was Kansas City.</b>  20       Q. Okay. And you remember meeting  21       with Joyce Owens; is that right?  22       <b>A. To my recollection that was her</b></p>	<p style="text-align: right;">112</p> <p>1       <b>e-mails that she had in her file on AWG.</b>  2       Q. All right. And what did those  3       e-mails -- did she have some e-mails?  4       <b>A. Yes.</b>  5       Q. And what did they pertain to?  6       <b>A. The first one was -- she had a</b>  7       <b>document where we submitted a bid to AWG in 2004</b>  8       <b>for their Nashville division.</b>  9       Q. Okay.  10       <b>A. And then she had a subsequent</b>  11       <b>meeting. We were not awarded -- we didn't</b>  12       <b>receive any business on Nashville at that time.</b>  13       <b>And then the next contact with AWG</b>  14       <b>was in 2006 when Joyce reached out to Lindsey</b>  15       <b>and asked us to come in for a visit to discuss</b>  16       <b>their egg program. She had -- she received an</b>  17       <b>e-mail after -- so we submitted a bid for the</b>  18       <b>AWG business at that time, and we had -- there</b>  19       <b>was an e-mail from Joyce telling us that they</b>  20       <b>appreciated us bidding and that they were going</b>  21       <b>to keep all the business with their current</b>  22       <b>supplier, Moark.</b></p>
<p style="text-align: right;">111</p> <p>1       <b>name. I'm almost positive Owens was her last</b>  2       <b>name, Joyce Owens.</b>  3       Q. In preparation for your deposition  4       today did you review any documents to refresh  5       your recollection about that 2006 visit?  6       <b>A. Yes.</b>  7       Q. What did you review?  8       <b>A. I reviewed e-mails, documents</b>  9       <b>that -- with Lindsey Schepman, concerning</b>  10       <b>information about the visit. There were just --</b>  11       <b>the visit in general. That's how I recall</b>  12       <b>Joyce's name. Because I didn't -- until I</b>  13       <b>reviewed it I didn't remember her name.</b>  14       Q. So was Lindsey Schepman someone  15       who you also met with in prep for your  16       deposition?  17       <b>A. Yes.</b>  18       Q. And when did you meet with her?  19       <b>A. On Friday.</b>  20       Q. Okay. And what e-mails did you  21       review with her concerning the 2006 visit?  22       <b>A. Any e-mails -- I reviewed any</b></p>	<p style="text-align: right;">113</p> <p>1       <b>And then the next contact, Lindsey</b>  2       <b>reached out in 2009 to Joyce and asked her if</b>  3       <b>they were going -- if there was an opportunity</b>  4       <b>for us to review their business again, because</b>  5       <b>it had been several years, and she had an e-mail</b>  6       <b>back from Joyce telling her that she was no</b>  7       <b>longer in charge of eggs and that Linda was now</b>  8       <b>responsible for eggs and that at this time they</b>  9       <b>were happy with their current supplier and that</b>  10       <b>they would not be bidding out the business.</b>  11       Q. And was that an e-mail?  12       <b>A. Yes.</b>  13       Q. Okay. And so is it safe to say  14       that from 2006 up until the 2013 bid process AWG  15       had purchased exclusively its eggs and specialty  16       eggs from Moark; is that correct?  17       <b>A. I don't know that for a fact.</b>  18       Q. Do you have any information that  19       would indicate otherwise?  20       <b>A. The only information I have is an</b>  21       <b>e-mail in 2009 -- I think it's 2009 -- 2008 --</b>  22       <b>2009 from -- a response from Joyce that Linda</b></p>



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<p style="text-align: right;">114</p> <p>1 <b>was the new buyer and that they were not going</b>  2 <b>to bid the business.</b>  3 <b>The only prior e-mail to that</b>  4 <b>would have been in 2006 when they told us that</b>  5 <b>they were keeping all their business with Moark.</b>  6 <b>And that was in 2006. And that was in an</b>  7 <b>e-mail.</b>  8 Q. So as far as you knew nothing had  9 changed since 2006; is that fair to say?  10 MR. MONICA: Object to the form of  11 the question. You can answer.  12 THE WITNESS: Nothing happened  13 between 2006 until the 2013 bid that would  14 have -- that I wouldn't have known, but I don't  15 know -- I guess -- ask me the question again,  16 please. I just.  17 BY MR. STUEVE:  18 Q. As far as you knew, up to the  19 point you were bidding in 2013, AWG was  20 purchasing its commodity eggs and specialty eggs  21 from Moark; fair enough?  22 MR. MONICA: Same objection.</p>	<p style="text-align: right;">116</p> <p>1 current supplier; right?  2 <b>A. Yes, I was.</b>  3 Q. And then you would have known, as  4 far as the bid process in 2013, that the current  5 supplier was Moark; right?  6 <b>A. No. Not for 100 percent of their</b>  7 <b>eggs, no.</b>  8 Q. What was your understanding when  9 you submitted the bid in 2013 as to who was  10 their supplier of their eggs?  11 <b>A. I knew Moark supplied them eggs.</b>  12 Q. Were you aware of any other  13 supplier?  14 <b>A. No.</b>  15 Q. And you understood at that time  16 that Moark would have been UEP Certified; right?  17 <b>A. At what time?</b>  18 Q. 2013?  19 <b>A. That?</b>  20 Q. Moark was UEP Certified?  21 <b>A. Yes.</b>  22 Q. And they would have been UEP</p>
<p style="text-align: right;">115</p> <p>1 THE WITNESS: I wouldn't have any  2 knowledge different than that, if they were  3 purchasing them from Moark. I know for a fact  4 that Moark did not produce all the eggs that AWG  5 purchased.  6 BY MR. STUEVE:  7 Q. Well, let me ask you this way.  8 As far as you knew, AWG was  9 purchasing all of its eggs, commodity and  10 specialty eggs, from Moark; is that correct?  11 MR. MONICA: Same objection.  12 BY MR. STUEVE:  13 Q. From 2006 up to 2013?  14 MR. MONICA: Same objection.  15 THE WITNESS: I wouldn't know  16 that.  17 BY MR. STUEVE:  18 Q. You knew in '06 they had secured  19 the business; right?  20 <b>A. Yes. I did.</b>  21 Q. Then you made inquiry in '09 and  22 you were told that they were happy with their</p>	<p style="text-align: right;">117</p> <p>1 Certified from 2006 up until 2013, as far as you  2 knew; correct?  3 <b>A. Yes.</b>  4 Q. Do you know who else submitted  5 bids in 2013?  6 <b>A. No. I don't.</b>  7 Q. Okay. Now, the -- do you know who  8 your principal competitors are with respect to  9 the AWG business, as far as egg producers?  10 <b>A. In what divisions?</b>  11 Q. In their Midwest division?  12 <b>A. Which Midwest division?</b>  13 Q. Kansas City, Oklahoma, Iowa?  14 <b>A. Those states?</b>  15 Q. Yeah.  16 <b>A. Okay. I'm not aware of one in</b>  17 <b>Iowa, but with regards to Kansas City --</b>  18 Q. You bid on all the business;  19 right?  20 <b>A. Yes.</b>  21 Q. Both specialty and commodity?  22 <b>A. Yes.</b></p>

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<p style="text-align: right;">118</p> <p>1 Q. Okay. Who did you understand your 2 principal competitors were going to be? 3 <b>A. Back. Same question. Are we 4 talking all their divisions?</b> 5 Q. In any of their divisions. Yeah. 6 <b>A. I just want to be clear.</b> 7 <b>Okay. In all divisions -- and 8 this is only because I know who the producers 9 are in the division, so I don't know who bid, 10 but if you're asking me who were my competitors 11 that are in the geographic locations for the bid 12 that I put in, that's all I can refer to, 13 because I have no knowledge of who all -- other 14 than Moark. I don't know who else bid. So.</b> 15 Q. You understood, though, that the 16 bid requirement, they wanted you to bid on all 17 the business; right? 18 <b>A. No. I think we could have bid -- 19 we could have bid or just certain divisions.</b> 20 Q. You bid on all their business? 21 MR. MONICA: Objection. Asked and 22 answered.</p>	<p style="text-align: right;">120</p> <p>1 <b>A. Yeah. I believe they would. They 2 would have enough birds.</b> 3 Q. A million hens would do it? 4 <b>A. Uh-huh.</b> 5 MR. MONICA: Mr. Hinton, you have 6 to answer audibly. 7 THE WITNESS: I'm sorry. Yes. 8 BY MR. STUEVE: 9 Q. What about Mahard? 10 <b>A. Yes.</b> 11 Q. Where are their facilities? 12 <b>A. Texas.</b> 13 Q. How many hens? 14 <b>A. Three to four million.</b> 15 Q. Is that where they're only located 16 is in Texas, to the best of your knowledge? 17 <b>A. They may have a farm over the line 18 in Oklahoma.</b> 19 Q. Okay. What about Dutt and Wagner. 20 Where are their hens? 21 <b>A. Virginia.</b> 22 Q. And it's your testimony that they</p>
<p style="text-align: right;">119</p> <p>1 THE WITNESS: Let me think. 2 My recollection is we bid on all 3 the business, to the best of my recollection. 4 BY MR. STUEVE: 5 Q. And who would your competition 6 have been in the areas in which AWG's 7 distribution centers are located? 8 <b>A. Okay. They would be Moark, 9 Sparboe, Centrum Farms, Cal-Maine, Midwest 10 Poultry, Creighton Brothers, Hillandale, Weaver, 11 Dutt and Wagner, Mahard, Feather Crest. That's 12 the ones off the top of my head. There could be 13 a few others.</b> 14 Q. Feather Crest, where are their 15 production facilities? 16 <b>A. In Texas.</b> 17 Q. Do you know how many hens they 18 own? 19 <b>A. More than a million.</b> 20 Q. They wouldn't have been able to 21 supply all of the eggs for all of Moark's 22 facilities; correct?</p>	<p style="text-align: right;">121</p> <p>1 would be able to submit a competitive bid on 2 AWG's business? 3 <b>A. They would have focused -- my 4 thought would be they would focus primarily on 5 Nashville.</b> 6 Q. Do you know how many hens they 7 have? 8 <b>A. Over a million, 9 a million-and-a-half.</b> 10 Q. What about Weaver? Where are 11 theirs located? 12 <b>A. In Ohio.</b> 13 Q. And approximately how many birds? 14 <b>A. Seven million.</b> 15 Q. And would it be your assumption 16 that they would bid on the entire business? 17 <b>A. I think they would focus on 18 Nashville, as well.</b> 19 Q. And then what about Midwest 20 Poultry for their -- 21 <b>A. Eight million.</b> 22 Q. Where are they located?</p>



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<p style="text-align: right;">122</p> <p>1 <b>A. Indiana.</b></p> <p>2 Q. Is it your understanding that they</p> <p>3 would have been in a position to bid on all the</p> <p>4 business?</p> <p>5 MR. HURLEY: This is Ryan Hurley.</p> <p>6 Object. Lack of foundation. Calls for</p> <p>7 speculation.</p> <p>8 BY MR. STUEVE:</p> <p>9 Q. Go ahead.</p> <p>10 <b>A. They have enough birds -- I mean,</b></p> <p>11 <b>my -- you're asking my thinking. I would think,</b></p> <p>12 <b>you know, logic would be Nashville.</b></p> <p>13 Q. Just because of the geographic</p> <p>14 location; right?</p> <p>15 <b>A. Yes. Yes.</b></p> <p>16 Q. Because the transportation costs</p> <p>17 could be prohibitive as far as submitting a bid</p> <p>18 in all the distribution centers AWG business;</p> <p>19 correct?</p> <p>20 MR. MONICA: Objection. Calls for</p> <p>21 speculation.</p> <p>22 THE WITNESS: Transportation is</p>	<p style="text-align: right;">124</p> <p>1 Q. Okay. Now, with respect to your</p> <p>2 recollection with respect to the 2006 visit, you</p> <p>3 recall going there prior to submitting the bid.</p> <p>4 Do you recall any discussion with respect to any</p> <p>5 specification requirements for that bid?</p> <p>6 <b>A. I don't recall.</b></p> <p>7 Q. Did any of the e-mails that you</p> <p>8 found have any specifications listed in them?</p> <p>9 <b>A. I -- I don't recall. I didn't</b></p> <p>10 <b>specifically look for the -- we may very likely</b></p> <p>11 <b>have them, but I didn't -- I didn't look for</b></p> <p>12 <b>that.</b></p> <p>13 Q. The 2006 bid, did you bid on all</p> <p>14 their distribution centers?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Okay. Do you know who else</p> <p>17 submitted bids?</p> <p>18 <b>A. Well, the only thing I know is</b></p> <p>19 <b>Moark, because we were told Moark kept the</b></p> <p>20 <b>business, so I know for a fact Moark did.</b></p> <p>21 Q. In 2006 were you aware that</p> <p>22 Sparboe bid on that business?</p>
<p style="text-align: right;">123</p> <p>1 one factor that goes into the price. I can't</p> <p>2 say what somebody is going to bid at.</p> <p>3 BY MR. STUEVE:</p> <p>4 Q. What about Cal-Maine? Where are</p> <p>5 their birds?</p> <p>6 <b>A. They -- I believe Cal-Maine has</b></p> <p>7 <b>birds in approximately 15 states. I can --</b></p> <p>8 Q. And Central Farms?</p> <p>9 <b>A. Iowa and -- well, they have a</b></p> <p>10 <b>sister company, Trillium, in Ohio.</b></p> <p>11 Q. But, again, where would you</p> <p>12 anticipate they were going to submit a bid?</p> <p>13 <b>A. Everything.</b></p> <p>14 Q. Everything for Centrum?</p> <p>15 <b>A. Centrum and Trillium, together.</b></p> <p>16 <b>They're joint companies. They just have</b></p> <p>17 <b>different names.</b></p> <p>18 Q. Okay. How many birds do they</p> <p>19 have?</p> <p>20 <b>A. Over 20 million.</b></p> <p>21 Q. Okay. In Indiana?</p> <p>22 <b>A. No. They're in Iowa and Ohio.</b></p>	<p style="text-align: right;">125</p> <p>1 <b>A. No.</b></p> <p>2 Q. In 2006 Sparboe was not UEP</p> <p>3 Certified; correct?</p> <p>4 <b>A. I don't recall the exact year that</b></p> <p>5 <b>Sparboe -- I can't say for sure exactly in 2006,</b></p> <p>6 <b>no, not off the top of my head.</b></p> <p>7 Q. But you know they left the UEP</p> <p>8 Certified Program; correct, sir?</p> <p>9 <b>A. Yes. I know that.</b></p> <p>10 Q. Would it have been around</p> <p>11 2005/2006 timeframe?</p> <p>12 <b>A. I don't remember the time.</b></p> <p>13 Q. Okay. Anything else that you</p> <p>14 discussed with Amanda Jackson, besides the 2006</p> <p>15 visit?</p> <p>16 <b>A. I didn't discuss the 2006 visit</b></p> <p>17 <b>with Amanda Jackson.</b></p> <p>18 Q. I'm sorry. Lindsey Sherman?</p> <p>19 <b>A. Schepman.</b></p> <p>20 Q. Schepman?</p> <p>21 <b>A. No. That was mainly focused on</b></p> <p>22 <b>just what she recalled and looked at the e-mails</b></p>

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<p style="text-align: right;">126</p> <p>1 <b>with her. She reviewed the e-mails.</b></p> <p>2 Q. And so -- I just want to make sure</p> <p>3 I understand everything that you both recall</p> <p>4 after looking at the e-mails. You did go out</p> <p>5 and visit the AWG headquarters in Kansas City</p> <p>6 and met with Joyce Owens; correct?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. You recall that you submitted a</p> <p>9 bid for all the business; correct?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And that Moark -- you recall being</p> <p>12 advised Moark kept the business; is that</p> <p>13 correct?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. All right. And you were not aware</p> <p>16 of anyone else supplying eggs to AWG up to the</p> <p>17 2013 bid; fair enough?</p> <p>18 <b>A. Like I said, supplying but not</b></p> <p>19 <b>producing.</b></p> <p>20 Q. My question was supplying, sir?</p> <p>21 <b>A. I don't have personal knowledge of</b></p> <p>22 <b>anyone else that was their vendor.</b></p>	<p style="text-align: right;">128</p> <p>1 <b>A. I mentioned already.</b></p> <p>2 Q. And prior to that meeting did you</p> <p>3 all request what the specifications would be for</p> <p>4 the bid?</p> <p>5 <b>A. They submitted an RFP to us,</b></p> <p>6 <b>asking us for information about our company and</b></p> <p>7 <b>what -- that they were -- and they requested</b></p> <p>8 <b>that we would come out for a meeting to discuss</b></p> <p>9 <b>their bid process.</b></p> <p>10 Q. That RFP, though, did not have</p> <p>11 product specifications; is that correct?</p> <p>12 MR. MONICA: Objection.</p> <p>13 THE WITNESS: The -- I don't</p> <p>14 remember if the RFP initially had it or not.</p> <p>15 BY MR. STUEVE:</p> <p>16 Q. Okay. But you do recall receiving</p> <p>17 an RFP; is that right?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And a part of the RFP requested</p> <p>20 that you come to visit before submitting a bid;</p> <p>21 is that correct?</p> <p>22 <b>A. Correct.</b></p>
<p style="text-align: right;">127</p> <p>1 Q. Okay. And when -- you did not</p> <p>2 come out and visit prior to submitting the bid</p> <p>3 in 2013; is that correct?</p> <p>4 <b>A. No. That's not correct.</b></p> <p>5 Q. Okay. I'm sorry. You did come</p> <p>6 out and visit prior to, in 2013?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Okay. And who participated in</p> <p>9 that meeting again?</p> <p>10 <b>A. Myself and Amanda Jackson.</b></p> <p>11 Q. Okay. Now I've got my dates</p> <p>12 realigned here.</p> <p>13 Okay. And we -- let me drill down</p> <p>14 on that meeting, because I don't think I've</p> <p>15 asked you specifics about that.</p> <p>16 How long were you at the AWG</p> <p>17 headquarters?</p> <p>18 <b>A. No more than a couple hours.</b></p> <p>19 Q. Okay. And you met with Linda</p> <p>20 Whiteside; is that correct?</p> <p>21 <b>A. And Scott.</b></p> <p>22 Q. And Scott.</p>	<p style="text-align: right;">129</p> <p>1 Q. All right. And when did you get</p> <p>2 that RFP?</p> <p>3 <b>A. It was last spring.</b></p> <p>4 Q. Okay.</p> <p>5 <b>A. Last spring. Yeah.</b></p> <p>6 Q. Spring of 2013?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. All right. And did you review</p> <p>9 that in preparation for your deposition today?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Okay. Do you recall who sent you</p> <p>12 the RFP?</p> <p>13 <b>A. I believe it was Linda.</b></p> <p>14 Q. Who did it go to at Rose Acre?</p> <p>15 <b>A. To Lindsey Schepman.</b></p> <p>16 Q. And then what did she do with it</p> <p>17 when she got it?</p> <p>18 <b>A. She sent it to Amanda Jackson and</b></p> <p>19 <b>myself.</b></p> <p>20 Q. Okay. And how long afterwards,</p> <p>21 after getting the RFP did you set up a meeting</p> <p>22 with AWG?</p>

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<p style="text-align: right;">130</p> <p>1           <b>A. We met in -- I think the request</b>  2     <b>date was -- I believe it was June.</b>  3           Q. Okay.  4           <b>A. Yeah. June. They had some dates.</b>  5     <b>They said they were going to meet with</b>  6     <b>suppliers.</b>  7           Q. Okay.  8           <b>A. And there was like a two-day --</b>  9     <b>there was a two-day window that they wanted to</b>  10    <b>meet. And I can't remember exactly those</b>  11    <b>two days, but it may have been even prior to</b>  12    <b>June. It was last spring. They had two dates.</b>  13    <b>Linda said there were two dates, wanted to know</b>  14    <b>if we could make one of those two dates.</b>  15           Q. Okay.  16           <b>A. And so we -- Amanda then</b>  17    <b>responded -- since Lindsey was no longer the one</b>  18    <b>that would have been the account rep, it was</b>  19    <b>Amanda's job, you know, Amanda contacted Linda</b>  20    <b>and set up the meeting.</b>  21           Q. Okay. And do you recall what  22    specific information they wanted from you in the</p>	<p style="text-align: right;">132</p> <p>1     with?</p> <p>2           <b>A. Yes. They asked us if we were</b>  3     <b>SQF, which is our safe food quality standards.</b>  4           Q. Anything else they asked you  5     about?  6           <b>A. I think it was just our production</b>  7     <b>capabilities.</b>  8           Q. And why were they asking you about  9     the production capabilities? What was your  10    understanding as to why they were asking that?  11           <b>A. I think just to know what our size</b>  12    <b>was as a company, because we had never really</b>  13    <b>had any contact with Linda before.</b>  14           Q. Also, they not only wanted size,  15    but they wanted locations; right?  16           <b>A. I -- I -- to the best of my</b>  17    <b>knowledge, yeah, they wanted to know where the</b>  18    <b>farms were located.</b>  19           Q. Okay. And did you collect all  20    that information before going out there?  21           <b>A. We submitted information to them</b>  22    <b>before, prior to the meeting.</b></p>
<p style="text-align: right;">131</p> <p>1     RFP?</p> <p>2           <b>A. Yeah. There was -- there was</b>  3     <b>different questions about our company, our size,</b>  4     <b>our capabilities. They asked -- there was a</b>  5     <b>question they asked us if we were UEP Certified.</b>  6     <b>There was -- I'm trying to remember if there was</b>  7     <b>financial -- our farm locations. I'm trying to</b>  8     <b>think. Our capabilities. There was ten or 12</b>  9     <b>different things. I can't remember every one.</b>  10    <b>We have a document. I could --</b>  11           Q. Okay. You remember looking at it,  12    though?  13           <b>A. Yes.</b>  14           Q. Okay. And the question with  15    respect to UEP Certified, do you recall what  16    that question was, specifically?  17           <b>A. Yes.</b>  18           Q. What was it?  19           <b>A. It said, are you UEP Certified?</b>  20    <b>Yes or no.</b>  21           Q. Okay. And did they ask about any  22    other standards that you may be in compliance</p>	<p style="text-align: right;">133</p> <p>1           Q. Okay. And who did you submit it  2     to?  3           <b>A. To Linda.</b>  4           Q. Okay. And then when you met with  5    Linda did you go over those questions?  6           <b>A. Yeah. We had lengthy discussions</b>  7    <b>with Linda and Scott. Amanda and I did.</b>  8           Q. Specifically, did you walk through  9    the questions that were in the RFP?  10           <b>A. I think the topics of it were</b>  11    <b>discussed. I don't think we went down the list</b>  12    <b>of them, but, I mean, it was a pretty in-depth</b>  13    <b>meeting.</b>  14           Q. What was the primary focus of the  15    meeting, the in-person meeting?  16           <b>A. They wanted to get to know us</b>  17    <b>better.</b>  18           Q. Okay. And specifically what were  19    they inquiring about, as far as getting to know  20    you better?  21           <b>A. I think as a company and what our</b>  22    <b>capabilities are and what we had to offer to AWG</b></p>

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<p style="text-align: right;">134</p> <p>1 if we were chosen as a supplier. Just, you  2 know, general, what our -- so our approach to  3 the meeting was that we would give them a  4 history of Rose Acres. We would tell them all  5 about our company, the fact that, you know,  6 we're vertically integrated and just what all of  7 our capabilities were, about our food safety  8 program, about our animal welfare program. The  9 fact that we have a veterinarian on staff. The  10 fact that we have our quality control department  11 and we have microbiologists on staff. And, like  12 I said, discuss our farms, what farms we had and  13 which farms we had availability to supply them  14 from, our capabilities. Those kind of things.</p> <p>15 Q. Did you talk to them about some of  16 your other customers that may be similar to  17 them?</p> <p>18 A. No.</p> <p>19 Q. Did you talk at all about any  20 capabilities as far as assisting the independent  21 retail grocers in promotions and those types of  22 things?</p>	<p style="text-align: right;">136</p> <p>1 and a -- we supply two specialty eggs. I'm  2 trying to remember what the other one is. There  3 are two specialty eggs we are supplying to AWG  4 right now.</p> <p>5 Q. Did your bid include all of your  6 specialty products?</p> <p>7 MR. MONICA: Objection. You can  8 answer.</p> <p>9 THE WITNESS: I don't remember  10 everyone that was on there. I would have to  11 review the bid again.</p> <p>12 BY MR. STUEVE:</p> <p>13 Q. Okay. And with respect to the  14 specialty eggs, would you have been the one that  15 would have been responsible for setting the  16 price?</p> <p>17 MR. MONICA: Objection.</p> <p>18 THE WITNESS: I would have worked  19 on setting a price.</p> <p>20 BY MR. STUEVE:</p> <p>21 Q. All right. And who else would  22 have assisted in that?</p>
<p style="text-align: right;">135</p> <p>1 MR. MONICA: Objection. Vague.  2 Ambiguous.</p> <p>3 THE WITNESS: No. Not -- not  4 specifically on promotions. No.</p> <p>5 BY MR. STUEVE:</p> <p>6 Q. Okay. Did you submit a bid, both  7 as to the specialty eggs and the commodity eggs?</p> <p>8 MR. MONICA: Objection. Vague.  9 Ambiguous.</p> <p>10 THE WITNESS: There -- yes. We  11 supply AWG commodity eggs and some specialty  12 eggs.</p> <p>13 BY MR. STUEVE:</p> <p>14 Q. The bid that you submitted,  15 though, included both; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And with respect to the  18 specialty eggs, what specialty eggs did you bid  19 on?</p> <p>20 A. I can't remember off the top of my  21 head the different specialty eggs. I know that  22 we -- we're currently supplying an organic egg</p>	<p style="text-align: right;">137</p> <p>1 A. Amanda Jackson and Greg Marshall.</p> <p>2 Q. And with respect to the specialty  3 eggs that you bid on, what was the margin that  4 you built in?</p> <p>5 MR. MONICA: Objection as to the  6 term "margin."</p> <p>7 THE WITNESS: Yeah. As I stated  8 before, there's no -- actually, you referred to  9 margin. I would refer to it as profit, really,  10 when we're looking at specialty eggs. We call  11 it profit, not margin, as a company, but the --  12 I can't sit there and tell you what that would  13 have been. And it changes. And one thing, our  14 profit, it can change, just, you know, basically  15 monthly, because it all evolves around our feed  16 costs. So it's not set. When we look at it we  17 put a -- we establish a profit in the beginning,  18 but it constantly changes.</p> <p>19 BY MR. STUEVE:</p> <p>20 Q. Right. And what I want to know is  21 what was the profit margin that you built in in  22 the beginning in your bid process?</p>

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<p style="text-align: right;">138</p> <p>1 MR. MONICA: Objection.</p> <p>2 THE WITNESS: Without reviewing</p> <p>3 the prior, I don't recall.</p> <p>4 BY MR. STUEVE:</p> <p>5 Q. What documents would you look to</p> <p>6 to refresh your recollection?</p> <p>7 <b>A. I would have to go back and look</b></p> <p>8 <b>at production costs at that time, and then what</b></p> <p>9 <b>our ultimate bid price was.</b></p> <p>10 Q. Is there -- you would have been</p> <p>11 provided that information; is that correct, by</p> <p>12 Mr. Marshall?</p> <p>13 MR. MONICA: Objection.</p> <p>14 THE WITNESS: In regards to the</p> <p>15 specialty eggs?</p> <p>16 BY MR. STUEVE:</p> <p>17 Q. On your costs?</p> <p>18 <b>A. On the specialty eggs?</b></p> <p>19 Q. Yes.</p> <p>20 <b>A. Okay. Yes.</b></p> <p>21 Q. All right. And in what form would</p> <p>22 he have provided that to you?</p>	<p style="text-align: right;">140</p> <p>1 BY MR. STUEVE:</p> <p>2 Q. Specifically for the bid process;</p> <p>3 correct?</p> <p>4 MR. MONICA: Objection. Vague.</p> <p>5 THE WITNESS: Not specifically for</p> <p>6 the bid process. It's just they -- a document</p> <p>7 that he generates based on what our, you know,</p> <p>8 our costs are.</p> <p>9 BY MR. STUEVE:</p> <p>10 Q. But he understands you're going to</p> <p>11 use that in order to formulate a bid; is that</p> <p>12 fair to say?</p> <p>13 MR. MONICA: Objection. Calls for</p> <p>14 speculation.</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. STUEVE:</p> <p>17 Q. Okay. And you take that document</p> <p>18 that he prepares for you, that has the cost, and</p> <p>19 then from there you add a profit margin onto</p> <p>20 that and then submit the bid; correct, sir?</p> <p>21 MR. MONICA: Object to the</p> <p>22 terminology, "profit margin." You can answer.</p>
<p style="text-align: right;">139</p> <p>1 <b>A. Okay. Not all the specialty eggs.</b></p> <p>2 <b>On the organic eggs, we purchase those. As I</b></p> <p>3 <b>stated before, all our organic eggs are</b></p> <p>4 <b>purchased from Herbrucks.</b></p> <p>5 <b>On the specialty eggs that we</b></p> <p>6 <b>produce, Greg Marshall provides a document to us</b></p> <p>7 <b>with those costs.</b></p> <p>8 Q. And --</p> <p>9 <b>A. On Omega-3 or a cage-free egg.</b></p> <p>10 Q. And did it have a title on the</p> <p>11 document?</p> <p>12 MR. MONICA: Objection.</p> <p>13 THE WITNESS: I don't -- I don't</p> <p>14 remember what the title would be.</p> <p>15 BY MR. STUEVE:</p> <p>16 Q. But it's a bid document?</p> <p>17 <b>A. No. It's not a bid document.</b></p> <p>18 Q. So he generates this from the</p> <p>19 computer?</p> <p>20 MR. MONICA: Objection.</p> <p>21 THE WITNESS: Greg Marshall would</p> <p>22 put together a cost document for us.</p>	<p style="text-align: right;">141</p> <p>1 THE WITNESS: Yeah. We would take</p> <p>2 the document he provides us. We would ramp up</p> <p>3 other costs like packaging and freight and</p> <p>4 whatever it may be, and then decide at that</p> <p>5 point in time a profit what we wanted to add and</p> <p>6 submit a bid, yes.</p> <p>7 BY MR. STUEVE:</p> <p>8 Q. All right. And those calculations</p> <p>9 that you do where you add in the freight and</p> <p>10 packaging and then add in the profit margin, is</p> <p>11 that contained in a document?</p> <p>12 MR. MONICA: Object to the term,</p> <p>13 "profit margin." You can answer.</p> <p>14 THE WITNESS: The -- no.</p> <p>15 BY MR. STUEVE:</p> <p>16 Q. So is it written down somewhere?</p> <p>17 <b>A. On the pricing in the bid -- the</b></p> <p>18 <b>final price is submitted to the customer.</b></p> <p>19 Q. Right. But the internal</p> <p>20 calculation that has the margin added to the</p> <p>21 cost, is that noted anywhere?</p> <p>22 MR. MONICA: Objection to the</p>

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<p style="text-align: right;">142</p> <p>1 term, "margin." Mischaracterizing.</p> <p>2 THE WITNESS: The profit that we</p> <p>3 add, I don't -- I don't have -- for the AWG --</p> <p>4 we're talking about the bid for AWG. I don't</p> <p>5 recall that I have a document that's stating</p> <p>6 that. No.</p> <p>7 BY MR. STUEVE:</p> <p>8 Q. And sitting here today you don't</p> <p>9 recall what that profit margin was?</p> <p>10 MR. MONICA: Objection to the</p> <p>11 term, "profit margin."</p> <p>12 THE WITNESS: The profit that we</p> <p>13 added in -- no. I don't recall today what that</p> <p>14 profit is that we added at that time to the bid.</p> <p>15 BY MR. STUEVE:</p> <p>16 Q. Do you track whether or not you're</p> <p>17 meeting or exceeding that margin?</p> <p>18 MR. MONICA: Objection to the</p> <p>19 term, "margin." You're mischaracterizing what</p> <p>20 he's testified to. You can answer.</p> <p>21 THE WITNESS: As far as the profit</p> <p>22 on individual sales, we do not track that. No.</p>	<p style="text-align: right;">144</p> <p>1 we do not track profit -- I already said I don't</p> <p>2 track profit on any --</p> <p>3 BY MR. STUEVE:</p> <p>4 Q. You said my question is vague. I</p> <p>5 told you earlier, I do not want you to answer a</p> <p>6 question that you don't understand. So if I</p> <p>7 could?</p> <p>8 MR. MONICA: Counsel, you're</p> <p>9 interrupting his answer. You cut him off twice.</p> <p>10 MR. STUEVE: The witness told me</p> <p>11 the question is vague. I want to make sure the</p> <p>12 record is clear.</p> <p>13 MR. MONICA: If you want to</p> <p>14 withdraw the question and ask a new one, you</p> <p>15 can. But if you want him to answer that</p> <p>16 question, he was answering it, you cut him off</p> <p>17 twice.</p> <p>18 Could you read it back, please.</p> <p>19 MR. STUEVE: Again, I'm going to</p> <p>20 caution the witness, if you answer my question</p> <p>21 I'm going to assume you understood it.</p> <p>22 MR. MONICA: Please read it back.</p>
<p style="text-align: right;">143</p> <p>1 BY MR. STUEVE:</p> <p>2 Q. Do you do any tracking with</p> <p>3 respect to the sales to AWG as to the profit</p> <p>4 that you're generating and whether or not that</p> <p>5 exceeds or is below the margin that you had</p> <p>6 utilized in submitting the bid?</p> <p>7 MR. MONICA: Objection.</p> <p>8 Mischaracterizes prior testimony. Counsel, you</p> <p>9 keep twisting his words. You can answer.</p> <p>10 THE WITNESS: Okay. Repeat,</p> <p>11 please.</p> <p>12 (The record was read as</p> <p>13 requested.)</p> <p>14 MR. MONICA: Same objection. You</p> <p>15 can answer.</p> <p>16 THE WITNESS: Yeah. The question</p> <p>17 is kind of vague. If you're -- my answer --</p> <p>18 BY MR. STUEVE:</p> <p>19 Q. Let me back up.</p> <p>20 MR. MONICA: Let him answer the</p> <p>21 question.</p> <p>22 THE WITNESS: My answer would be</p>	<p style="text-align: right;">145</p> <p>1 Thank you.</p> <p>2 (The record was read as</p> <p>3 requested.)</p> <p>4 MR. MONICA: I want to lodge the</p> <p>5 same objection. If you understand it, answer</p> <p>6 it. If you don't, tell Mr. Stueve.</p> <p>7 THE WITNESS: Yeah. I don't fully</p> <p>8 understand the question.</p> <p>9 BY MR. STUEVE:</p> <p>10 Q. Okay. So you've described to me a</p> <p>11 process that would have been utilized to submit</p> <p>12 the bid to AWG in 2013 and in 2006 concerning</p> <p>13 specialty eggs; correct?</p> <p>14 <b>A. Concerning specialty eggs;</b></p> <p>15 <b>correct.</b></p> <p>16 Q. And what you've told me is you get</p> <p>17 costs from Mr. Marshall, that's the chief</p> <p>18 financial officer of the company. You then add</p> <p>19 certain transportation, packaging and other</p> <p>20 costs, and then you add a margin to that and you</p> <p>21 then submit the bid; is that correct?</p> <p>22 MR. MONICA: Objection.</p>



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<p style="text-align: right;">146</p> <p>1 Mischaracterizes his prior testimony. You can 2 answer.</p> <p>3 THE WITNESS: We get the cost. We 4 add a profit to that. At that time, that point 5 in time on what our costs were, then we add a 6 profit at that point in time and submit the bid. 7 BY MR. STUEVE:</p> <p>8 Q. And that profit, you testified 9 earlier, was a margin -- it could be anywhere 10 between 10 and \$0.30 per dozen; is that right? 11 MR. MONICA: Objection. You're 12 asking him about Kroger. You're twisting what 13 he said, counsel. You can answer it. 14 THE WITNESS: Yeah. I guess -- do 15 you want to ask the question specifically to 16 AWG? 17 BY MR. STUEVE:</p> <p>18 Q. I just want to know, because your 19 counsel keeps accusing me of twisting, and I'm 20 not trying to twist anything, I'm trying to 21 track your testimony. 22 You used the term margin earlier</p>	<p style="text-align: right;">148</p> <p>1 and our selling price on the specialty eggs 2 would be what we would consider a profit. 3 BY MR. STUEVE:</p> <p>4 Q. And you understood earlier, my 5 earlier questions, that's what I was referring 6 to when I was referring to a margin; correct, 7 sir?</p> <p>8 MR. MONICA: Objection. 9 THE WITNESS: If you're referring 10 to the difference between all of our costs and 11 what we sell, if you refer to it as a margin and 12 I refer to it as a profit. Yes. 13 BY MR. STUEVE:</p> <p>14 Q. Same thing; correct? 15 MR. MONICA: Objection. 16 THE WITNESS: I -- like I said, we 17 consider it to be a profit, is what we look at. 18 BY MR. STUEVE:</p> <p>19 Q. But if what we're talking about is 20 the difference between the sales price that you 21 bid and your costs, that difference, if I'm 22 using that -- if I'm describing that as a</p>
<p style="text-align: right;">147</p> <p>1 in your testimony. You've also used the term 2 profit; right?</p> <p>3 MR. MONICA: Objection. His 4 testimony speaks for itself. You can answer the 5 question.</p> <p>6 THE WITNESS: Yes. I testified 7 that we use -- internally we refer to it as 8 profit. 9 BY MR. STUEVE:</p> <p>10 Q. And that profit you understand is 11 the margin between the bid that you submit, the 12 difference -- let me back up. 13 The margin for profit is the 14 difference between the bid that you submit and 15 the costs, whether it's including the cost you 16 get from Mr. Marshall, packaging and 17 transportation. That difference is the profit; 18 correct, sir?</p> <p>19 MR. MONICA: Object to the form of 20 the question. 21 THE WITNESS: The -- the 22 difference between our costs, all of our costs</p>	<p style="text-align: right;">149</p> <p>1 margin, that's the same as your reference to 2 profit; fair enough?</p> <p>3 MR. MONICA: Objection. 4 THE WITNESS: I guess it's 5 whatever your termination definition of margin 6 that you're going to use, but. 7 BY MR. STUEVE:</p> <p>8 Q. If I'm using my definition of 9 margin is the difference between the sales price 10 and Rose Acre's costs, if that's my definition 11 of margin that would be the same as your 12 reference of using profit; fair enough, sir? 13 MR. MONICA: Object to the form of 14 the question. 15 THE WITNESS: If you're saying 16 it's the same as what I'm saying is profit, then 17 yes. 18 BY MR. STUEVE:</p> <p>19 Q. I'm defining margin to mean the 20 difference between the sales price that you 21 submitted to AWG and your costs. That would be 22 the same as your term "profit;" fair enough?</p>

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<p style="text-align: right;">150</p> <p>1 MR. MONICA: Objection. You can 2 answer. 3 THE WITNESS: We're talking about 4 specialty eggs; correct? 5 BY MR. STUEVE: 6 Q. Yes. 7 <b>A. In reference to specialty eggs our 8 profit is the difference between what our costs 9 and what our bid price would be at that point in 10 time.</b> 11 Q. Right. And so if I define 12 "margin" as the difference between your bid 13 price at the time and your costs, that would be 14 the same as your term, "profit;" fair enough? 15 MR. MONICA: Object to the form of 16 the question. 17 THE WITNESS: If that's what you 18 are saying. 19 BY MR. STUEVE: 20 Q. Read back my question. If you 21 would just answer it for me, sir. 22 (The record was read as</p>	<p style="text-align: right;">152</p> <p>1 about ten times, that it's called profit. 2 You can answer the question. 3 THE WITNESS: Yeah. I -- like I 4 said, you can call it what you want to call it. 5 We call profit on the difference between what 6 our costs are and what we sell for. 7 BY MR. STUEVE: 8 Q. You've never used the term 9 "margin" to describe the difference between your 10 bid price and your cost at the time you 11 submitted the bid; is that your testimony, sir? 12 <b>A. To AWG. Correct.</b> 13 Q. Or internally? 14 <b>A. On the AWG bid?</b> 15 Q. No. I'm talking about the 16 specialty eggs. When you're referring to the 17 difference between your bid cost and the cost 18 you never used the term margin to describe the 19 difference. Is that your testimony? 20 MR. MONICA: Objection as to vague 21 and time period. 22 THE WITNESS: I don't recall.</p>
<p style="text-align: right;">151</p> <p>1 requested.) 2 MR. MONICA: I'm going to assert 3 the same objection. Plus, now you've asked this 4 about ten times now. You can answer the 5 question. 6 THE WITNESS: I just go back to, 7 like I said, our definition of what we look at, 8 when we're looking at our costs and into our 9 bid, is what we deem as our profit. 10 BY MR. STUEVE: 11 Q. The difference between the bid 12 price and your cost is what you're deeming 13 profit; correct? 14 <b>A. At that point in time, yes.</b> 15 Q. And if I'm defining margin as the 16 difference between your bid price and your cost 17 at the time you submit your bid, that would be 18 the same as profit; fair enough? 19 MR. MONICA: Same objection that I 20 just asserted. 21 Counsel, you're trying to force 22 him to use your word. He's already told you</p>	<p style="text-align: right;">153</p> <p>1 Like I said, we always talk about profit. 2 MR. STUEVE: Why don't we take a 3 break. 4 THE VIDEOGRAPHER: The time is 5 12:05 p.m., and we are going off the record. 6 (Whereupon, at 12:05 p.m., a lunch 7 recess was taken.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>



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<p style="text-align: right;">154</p> <p>1 AFTERNOON SESSION 2 (1:03 p.m.) 3 THE VIDEOGRAPHER: This is the 4 start of media unit number three. The time is 5 1:03 p.m. and we are back on the record. 6 BY MR. STUEVE: 7 Q. I wanted to make sure I wrap up a 8 few things. We were talking about your 9 preparation and the various people that you met 10 with on Wednesday, Thursday, Friday, and then 11 this morning. I think I've walked through all 12 of the folks. Is there anyone that I've missed 13 that you recall? 14 A. Not specifically since Wednesday. 15 No. 16 Q. Okay. Is there any other 17 preparation that you did other than the two in 18 person meetings with your counsel, the meetings 19 with the various folks that we've talked about? 20 Anything else you did to prepare for your 21 deposition today? 22 A. Yeah. When I first received --</p>	<p style="text-align: right;">156</p> <p>1 lawsuit and, you know, I've been preserving 2 documents ever since, you know, I was told to by 3 counsel to preserve documents. So I'm aware and 4 basically just my own knowledge of dealings I 5 guess I would say that I have, you know, working 6 knowledge of the different information, pricing 7 with customers and just in general, but. 8 Q. My question, though, was focused 9 specifically with respect to the topics that 10 have been identified in Exhibit 517. When you 11 got that it's your testimony that you met with 12 Amanda Jackson; is that right, and reviewed the 13 topics with her? 14 A. Yes. 15 Q. Did you review it with anyone else 16 the first time you got it? 17 A. Not other than counsel. No. 18 Q. Okay. And then we talked about 19 the two in person meetings with counsel; 20 correct? 21 A. Yes. 22 Q. And then we talked about your</p>
<p style="text-align: right;">155</p> <p>1 Q. Exhibit 517? 2 A. Yes. I reviewed some -- I kind of 3 talked through some of the specific questions 4 with Amanda Jackson. 5 Q. Okay. 6 A. Just kind of going over the 7 information kind of in my mind, you know, 8 what -- what was going -- just kind of went 9 through the topics and we kind of discussed, I 10 can't say exactly in general everything, it was 11 just different customers. A lot of it 12 pertaining to AWG even at that time because it 13 focused a lot with AWG and since she had a lot 14 of the contact with AWG I wanted to make sure 15 there wasn't something -- you know, if there was 16 anything I could gather that would be helpful I 17 would get that. 18 Prior to that, over -- basically 19 over the course of the last several years, I 20 mean you could say -- I didn't have the 21 knowledge of the 517, though, until, you know, 22 recently, but prior to that I was aware of the</p>	<p style="text-align: right;">157</p> <p>1 discussions with the various folks at Rose Acre 2 last week up until this morning; right? 3 A. Correct. 4 Q. Is there anything else that you 5 did in preparation specifically for the topics 6 in Exhibit 517? 7 A. No. The rest of the information 8 is pretty much my knowledge of -- for all the 9 years I've done the business. I felt I had 10 pretty good knowledge of the questions that were 11 asked. So the ones that I didn't I went to the 12 people and talked with others just to make sure. 13 Q. Right. That's what I'm just 14 trying to make sure I've identified all the 15 specific preparation. Have I identified, to the 16 best of your recollection, the specific 17 preparation that you did to testify with respect 18 to the topics in 517? 19 A. Yes. 20 Q. All right. Now, I want to make 21 sure I understood and I understand your duties 22 as vice-president of sales.</p>

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<p style="text-align: right;">158</p> <p>1       <b>A. Okay.</b></p> <p>2       Q. As I -- what I would like to do is</p> <p>3 focus on the timeframe from '99 up until the</p> <p>4 restructuring that you testified occurred in</p> <p>5 2012?</p> <p>6       <b>A. Okay.</b></p> <p>7       Q. During that little over a decade</p> <p>8 period of time you would have been -- your title</p> <p>9 would have been VP of sales; is that right?</p> <p>10       <b>A. Yes.</b></p> <p>11       Q. And who would you have reported to</p> <p>12 during that time?</p> <p>13       <b>A. Marcus Rust.</b></p> <p>14       Q. Okay. And if you would, could you</p> <p>15 identify for me your specific responsibilities</p> <p>16 during that time as VP of sales?</p> <p>17       <b>A. I think I already did, but the</b></p> <p>18 <b>specific duties was I'm responsible for all</b></p> <p>19 <b>customer shell egg and egg product sales,</b></p> <p>20 <b>including basically whatever it needs to take</b></p> <p>21 <b>care of those customers in regards to setting</b></p> <p>22 <b>pricing, hiring staff to help support the</b></p>	<p style="text-align: right;">160</p> <p>1 that fair to say?</p> <p>2       <b>A. Yes. And I continue on today with</b></p> <p>3 <b>many of the same responsibilities.</b></p> <p>4       Q. That was going to be my next</p> <p>5 question.</p> <p>6       Were there any additional</p> <p>7 responsibilities or changes in your</p> <p>8 responsibilities after the restructuring?</p> <p>9       <b>A. No.</b></p> <p>10       Q. Okay. Now, prior to you -- as I</p> <p>11 understand it, you joined Rose Acre in 1992; is</p> <p>12 that right?</p> <p>13       <b>A. No.</b></p> <p>14       Q. Okay. I'm sorry. When did you</p> <p>15 join Rose Acre?</p> <p>16       <b>A. 1980?</b></p> <p>17       Q. 1980. Okay. And then you took on</p> <p>18 the responsibility of VP of sales in 1992?</p> <p>19       <b>A. Approximately 1992. Yes.</b></p> <p>20       Q. Okay. And have your</p> <p>21 responsibilities then been basically the same</p> <p>22 since then, 1992?</p>
<p style="text-align: right;">159</p> <p>1 support of the customers, working with</p> <p>2 transportation department and, you know, any</p> <p>3 issues regarding the customers. Overseeing,</p> <p>4 talking with, you know, quality departments for</p> <p>5 the different quality programs like SQF, the --</p> <p>6 with the plants with all the farms, basically</p> <p>7 the cooler managers who's responsible for</p> <p>8 ultimately making sure that the customers orders</p> <p>9 are produced and shipped. You know, I had</p> <p>10 contact with them over time, various times,</p> <p>11 just, you know, specific customer issues. If</p> <p>12 customers have certain specs which have to abide</p> <p>13 by, communicating that, either to people in my</p> <p>14 department or directly with some of the farm</p> <p>15 personnel, keeping an eye on packaging -- during</p> <p>16 the period of time I was responsible to oversee</p> <p>17 the purchasing of packaging, egg cartons, egg</p> <p>18 cases, and then really anything encompassing the</p> <p>19 sell of the shell egg and egg products, I was</p> <p>20 directly responsible for.</p> <p>21       Q. Now, these responsibilities you</p> <p>22 would have had up through the restructuring; is</p>	<p style="text-align: right;">161</p> <p>1       <b>A. Yes.</b></p> <p>2       Q. Okay. Prior to 1992 what were</p> <p>3 your job responsibilities at Rose Acre?</p> <p>4       <b>A. From -- okay. You want to talk</b></p> <p>5 <b>about 1980?</b></p> <p>6       Q. What I want to focus on is 1980 to</p> <p>7 1992. What were your job responsibilities? Did</p> <p>8 you have various positions? If so, just give me</p> <p>9 a summary of those?</p> <p>10       <b>A. In 1980 I hired in and my job</b></p> <p>11 <b>responsibilities was unloading carton trucks.</b></p> <p>12       Q. Okay.</p> <p>13       <b>A. I did that -- I had that</b></p> <p>14 <b>responsibility for about four or five months.</b></p> <p>15 <b>And then I moved into -- when I graduated high</b></p> <p>16 <b>school I moved into the cooler and my</b></p> <p>17 <b>responsibilities were stacking egg cases on</b></p> <p>18 <b>palettes, getting ready for shipment. During</b></p> <p>19 <b>that time of working in the cooler I had</b></p> <p>20 <b>different responsibilities, helped cooler, line</b></p> <p>21 <b>puller, pulling palettes away, putting them in</b></p> <p>22 <b>the warehouse. And then started helping loading</b></p>

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<p style="text-align: right;">162</p> <p>1 egg trucks.</p> <p>2 In approximately '90 -- I'm sorry.</p> <p>3 In approximately '82 -- '81/'82 -- late '81</p> <p>4 early '82 I was transferred to Jen-Acres -- that</p> <p>5 first responsibility was all at Court Acres egg</p> <p>6 farm. In '81/'82 I transferred over to</p> <p>7 Jen-Acres in North Vernon, Indiana. At that</p> <p>8 time I was put in charge of -- I was cooler</p> <p>9 manager and also kind of overseen the egg</p> <p>10 grading operations and did some house checks in</p> <p>11 the chicken houses and I was there for about a</p> <p>12 year -- a little over a year. And at that time</p> <p>13 I was transferred back to Court Acres in Seymour</p> <p>14 and was put in charge of the egg cooler, cooler</p> <p>15 manager in Seymour, and I basically held that</p> <p>16 position of cooler manager up until late '88/'89</p> <p>17 and at that time from '89 to '92 I was put in</p> <p>18 charge of egg sales.</p> <p>19 Q. Both shell egg and egg products?</p> <p>20 A. Yes.</p> <p>21 Q. And who -- whose responsibility</p> <p>22 did you take over?</p>	<p style="text-align: right;">164</p> <p>1 Q. Now, do you have a college degree?</p> <p>2 A. No.</p> <p>3 Q. Okay. When did you graduate from</p> <p>4 high school?</p> <p>5 A. 1980.</p> <p>6 Q. Okay. So you directly -- had you</p> <p>7 been working part-time at Rose Acre at that</p> <p>8 time?</p> <p>9 A. When I hired in 1980 I was</p> <p>10 part-time.</p> <p>11 Q. You were?</p> <p>12 A. Yes.</p> <p>13 Q. Starting in 1980?</p> <p>14 A. Yes.</p> <p>15 Q. Okay.</p> <p>16 A. February.</p> <p>17 Q. How old were you at that time?</p> <p>18 A. 17.</p> <p>19 Q. Okay. And how old are you now?</p> <p>20 A. 52.</p> <p>21 MR. MONICA: It gets hard when</p> <p>22 you're about 50.</p>
<p style="text-align: right;">163</p> <p>1 A. Donna Disque.</p> <p>2 Q. How do you spell her name?</p> <p>3 A. D-I-S-Q-U-E.</p> <p>4 Q. Is she still with the company?</p> <p>5 A. No.</p> <p>6 Q. When did she leave?</p> <p>7 A. Early '90s.</p> <p>8 Q. And then you took on the title of</p> <p>9 VP of sales in '92 sometime; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Any other job</p> <p>12 responsibilities you haven't identified between</p> <p>13 '80 and 1992?</p> <p>14 A. I took on the responsibility, as I</p> <p>15 mentioned, of egg packaging. I was doing</p> <p>16 some -- and that would have happened probably --</p> <p>17 I think in and around '86, '85/'86 I was</p> <p>18 responsible for buying our egg cartons and egg</p> <p>19 cases.</p> <p>20 Q. Okay. Any other responsibilities</p> <p>21 we haven't talked about?</p> <p>22 A. No.</p>	<p style="text-align: right;">165</p> <p>1 MR. STUEVE: Easy. I'm 52, as</p> <p>2 well.</p> <p>3 BY MR. STUEVE:</p> <p>4 Q. Okay. All right. Again, I want</p> <p>5 to focus on the 2000 to 2012 timeframe there</p> <p>6 before the restructuring when you would have</p> <p>7 been VP of sales.</p> <p>8 As I understand it, during that</p> <p>9 time period Amanda Jackson would have been</p> <p>10 working for you; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. And at that time she would have</p> <p>13 been a shell egg sales rep; is that right?</p> <p>14 A. Correct.</p> <p>15 Q. And did she have a specific region</p> <p>16 that she was assigned to?</p> <p>17 A. No.</p> <p>18 Q. Okay. And what did she do as a</p> <p>19 shell egg sales rep during this timeframe? And,</p> <p>20 again, we're talking about 2000 to 2012.</p> <p>21 A. 2000 to 2012. She called on</p> <p>22 customers -- worked on -- took care of existing</p>

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<p style="text-align: right;">166</p> <p>1 customers, making visits, reviewing -- reviewing</p> <p>2 just with customers -- a visit and talk to them</p> <p>3 about the business. Anything we can do better,</p> <p>4 anything else that they want from us.</p> <p>5 She would make sales calls on new</p> <p>6 accounts and -- that's kind of anything</p> <p>7 involving that. Anything involving customers.</p> <p>8 If you get a new account, following through,</p> <p>9 submitting, you know, price letters to</p> <p>10 customers. Communicating that with the accounts</p> <p>11 receivable department. Just a lot of general</p> <p>12 sales functions.</p> <p>13 Q. With respect to existing</p> <p>14 customers, was she assigned to existing</p> <p>15 customers?</p> <p>16 A. Nothing specific. She worked with</p> <p>17 all customers -- except for -- mainly shell</p> <p>18 eggs.</p> <p>19 Q. Right. And on the shell eggs side</p> <p>20 was she assigned any specific account that she</p> <p>21 was responsible for maintaining the customer</p> <p>22 relations and maintaining contact?</p>	<p style="text-align: right;">168</p> <p>1 accounts that you would have had particular</p> <p>2 responsibility for?</p> <p>3 A. I would have had more direct</p> <p>4 communication with them, but I had communication</p> <p>5 with all customers.</p> <p>6 Q. Right. And when you would go --</p> <p>7 so first of all, Dutch Farms. Can you tell us a</p> <p>8 little bit more about Dutch Farms?</p> <p>9 A. Sure.</p> <p>10 MR. MONICA: Objection. Vague.</p> <p>11 Go ahead. Go ahead.</p> <p>12 THE WITNESS: Dutch Farms is a --</p> <p>13 they're a distributor. They're located in</p> <p>14 Chicago, Illinois and they sell shell eggs for</p> <p>15 us. They distribute for us -- I say us. They</p> <p>16 also sell for other producers, but they're an</p> <p>17 egg distributor.</p> <p>18 BY MR. STUEVE:</p> <p>19 Q. Is that also known as Boomsma, as</p> <p>20 well, the same related entity?</p> <p>21 A. Well, I don't know about -- Brian</p> <p>22 Boomsma is the owner, B-O-O-M-S-M-A.</p>
<p style="text-align: right;">167</p> <p>1 A. Between -- at the time from</p> <p>2 2000 -- Lindsey and her worked with basically</p> <p>3 all the customers. They were seeing all the</p> <p>4 shell egg customers between Lindsey and Amanda.</p> <p>5 Q. Lindsey Schepman?</p> <p>6 A. Schepman.</p> <p>7 Q. Schepman. Okay. So between the</p> <p>8 two of them they were responsible during this</p> <p>9 timeframe of maintaining existing customer</p> <p>10 relations; is that right?</p> <p>11 A. Yes. Along with myself.</p> <p>12 Q. Okay. And would you -- would you</p> <p>13 actually go out in the field and visit them?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And did you have any</p> <p>16 specific accounts, for example, larger customers</p> <p>17 that you paid particular attention to?</p> <p>18 A. Yes.</p> <p>19 Q. And who were those?</p> <p>20 A. Dutch Farms, Save-A-Lot, CCF</p> <p>21 Brands, B-R, Brands, and Aldie.</p> <p>22 Q. Those would have been your</p>	<p style="text-align: right;">169</p> <p>1 Q. All right. And with respect --</p> <p>2 then did they turn around and then sell your</p> <p>3 eggs to independent retail grocers?</p> <p>4 A. They sold our eggs to a variety of</p> <p>5 customers.</p> <p>6 Q. And what's that variety?</p> <p>7 A. Well, they sold eggs -- during</p> <p>8 that period?</p> <p>9 Q. Yeah.</p> <p>10 A. They sold eggs to Wal-Mart. They</p> <p>11 sold eggs -- well, prior to 2000 they sold eggs</p> <p>12 to AWG. They sold eggs to Super Value. They</p> <p>13 sold eggs to Safeway. And then various</p> <p>14 independents in -- retail independents in the</p> <p>15 Chicago market area.</p> <p>16 They sold eggs to Piggly Wiggly in</p> <p>17 Alabama.</p> <p>18 Q. Okay. Now, when you met with</p> <p>19 Dutch Farms what are the types of things that</p> <p>20 you would do in order to try and increase the</p> <p>21 volume of sales that they would be making of</p> <p>22 your eggs?</p>

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<p style="text-align: right;">170</p> <p>1           <b>A. They really worked on their own.</b>  2   <b>They -- Bruce Boomsma, who has passed away, he</b>  3   <b>was in charge of their sales during that time</b>  4   <b>and Bruce would work on new business and</b>  5   <b>accounts and then he would contact me to say he</b>  6   <b>had a customer he was working on and we would</b>  7   <b>discuss the customer and he would talk about</b>  8   <b>what their needs are and what eggs they were</b>  9   <b>looking for. We would work out and I would give</b>  10   <b>him pricing and he had total direct with his</b>  11   <b>customers. It was his accounts, not mine.</b>  12       Q. All right. Would he approach you  13       about providing certain allowances or certain  14       promotions that would try to drive volume?  15       <b>A. He -- on existing accounts, if he</b>  16       <b>had an existing account and, yes, he would</b>  17       <b>ask -- from time to time if he wanted to run an</b>  18       <b>ad or promotion and he would come to me and say</b>  19       <b>can we, you know, can we do a deal on a</b>  20       <b>customer.</b>  21       Q. And when you say do a deal, would  22       he ask for a price concession?</p>	<p style="text-align: right;">172</p> <p>1 identified earlier where you at the time of  2 bidding would identify all your costs and then  3 add profit and then give him the bid price; is  4 that fair to say?  5       <b>A. Yes.</b>  6       Q. All right. And do you know during  7 this time period how often you would have  8 renegotiated this specialty egg price that you  9 had in place with Dutch Farms?  10       <b>A. I don't recall how often the price</b>  11       <b>would have been renegotiated.</b>  12       Q. Would it have been --  13       <b>A. We didn't sell Dutch Farms very</b>  14       <b>few specialty eggs.</b>  15       Q. But with respect to specialty  16 eggs, would it have been renegotiated every year  17 or would it have been a longer period of time?  18       <b>A. Annual is -- at least annually we</b>  19       <b>would look at it internally. And if we needed</b>  20       <b>to go back to the customer or to Dutch Farms on</b>  21       <b>it then we would.</b>  22       Q. All right. And then with respect</p>
<p style="text-align: right;">171</p> <p>1       <b>A. He would ask for a discount, a per</b>  2       <b>dozen discount on the eggs that he was buying.</b>  3       Q. Okay. And would these be  4 commodity eggs or specialty eggs or both?  5       <b>A. Both.</b>  6       Q. Okay. And when he would ask for a  7 discount that would be a discount off of the  8 negotiated price that you had in place with  9 Dutch Farms at the time?  10       <b>A. Yes.</b>  11       Q. Okay. And let's take Dutch Farms.  12 We talked about -- we talked  13 about -- with respect to specialty eggs then,  14 would you have had an agreement in place that  15 would have included a price that when you  16 initially entered into it with him would have  17 included your cost plus profit for the specialty  18 eggs?  19       <b>A. For the specialty eggs he would</b>  20       <b>have had a set price.</b>  21       Q. Okay. And that would have been  22 bid pursuant to your practice that you</p>	<p style="text-align: right;">173</p> <p>1 to Dutch Farms' commodity eggs, was that a  2 contract that would be based off of Urner Barry?  3       <b>A. Not only on I guess if you want to</b>  4       <b>talk about Urner Barry for the different</b>  5       <b>regions.</b>  6       Q. Did you have different prices  7 based off of different Urner Barry markets for  8 Dutch Farms?  9       <b>A. Yes.</b>  10       Q. Which Urner Barry region did you  11 use?  12       <b>A. The mid -- for Urner Barry we used</b>  13       <b>Midwest and the -- I think we used the South</b>  14       <b>Central in the past.</b>  15       Q. I'm focusing on this timeframe  16 between 2000 and roughly 2012?  17       <b>A. Yeah. The Southeast market.</b>  18       Q. Okay.  19       <b>A. And the Rose Acre market.</b>  20       Q. With respect to the Midwest Urner  21 Barry, what portion of the business for Dutch  22 Farms would have fallen under that pricing</p>

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<p style="text-align: right;">174</p> <p>1 structure?</p> <p>2 <b>A. During the whole period? From</b></p> <p>3 <b>2000 to 2012?</b></p> <p>4 Q. Uh-huh.</p> <p>5 <b>A. I don't know exactly when things</b></p> <p>6 <b>changed -- early in 2000 and first part of 2000</b></p> <p>7 <b>we would have had -- it could have been as much</b></p> <p>8 <b>as 50/50 between Urner Barry Midwest and Rose</b></p> <p>9 <b>Acre market and then sometime in that period, I</b></p> <p>10 <b>don't know exactly what year without looking it</b></p> <p>11 <b>up, it would have transitioned more to the</b></p> <p>12 <b>Midwest and today it's the majority. The</b></p> <p>13 <b>Midwest Urner Barry market.</b></p> <p>14 Q. When you say 50/50 Midwest Urner</p> <p>15 Barry then you said Rose Acre, what are you</p> <p>16 referring to?</p> <p>17 <b>A. We set a Rose Acre market.</b></p> <p>18 Q. And was that -- was that</p> <p>19 published? Was that publicly available?</p> <p>20 <b>A. Sure. To my customers.</b></p> <p>21 Q. Okay. And how was the Rose Acre</p> <p>22 market priced different from the Urner Barry</p>	<p style="text-align: right;">176</p> <p>1 like Dutch Farms would decide whether they</p> <p>2 wanted to use the Urner Barry Midwest versus</p> <p>3 Rose Acre?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. All right. And would you provide</p> <p>6 the customer a history of the Rose Acre market</p> <p>7 as compared to Urner Barry?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And how would you provide that to</p> <p>10 them?</p> <p>11 <b>A. In a document.</b></p> <p>12 Q. And what would it be called?</p> <p>13 <b>A. It really wasn't a heading. It</b></p> <p>14 <b>would have -- the document would have all</b></p> <p>15 <b>four -- well, four of the Urner Barry regional</b></p> <p>16 <b>markets and the Rose Acre market and it would</b></p> <p>17 <b>give it every week a breakdown with a summary of</b></p> <p>18 <b>the average at the bottom.</b></p> <p>19 Q. Okay. And would the Rose Acre</p> <p>20 typically fall below the Urner Barry?</p> <p>21 MR. MONICA: Objection. Vague.</p> <p>22 You can go ahead.</p>
<p style="text-align: right;">175</p> <p>1 Midwest market price?</p> <p>2 <b>A. The Rose Acre market is something</b></p> <p>3 <b>that we've been setting for years. And we base</b></p> <p>4 <b>the Rose Acre market off of our own internal egg</b></p> <p>5 <b>supply and so we determine for our customers</b></p> <p>6 <b>what price it is. So we move the market -- we</b></p> <p>7 <b>only set it on Thursday once a week. And so</b></p> <p>8 <b>every Thursday we publish the Rose Acre market</b></p> <p>9 <b>and sell customers off of that market.</b></p> <p>10 Q. Why would a customer choose the</p> <p>11 Rose Acre as opposed to the Urner Barry Midwest?</p> <p>12 MR. MONICA: Objection. You can</p> <p>13 answer.</p> <p>14 THE WITNESS: Yeah. I guess the</p> <p>15 customer has to make their own determination. I</p> <p>16 don't -- I can't be in the minds of what my</p> <p>17 customer are, but they look at our market. They</p> <p>18 would see a history of what our market, how the</p> <p>19 Rose Acre market fell and made their decision to</p> <p>20 use that as what they bought from.</p> <p>21 BY MR. STUEVE:</p> <p>22 Q. So it was left up to the customer,</p>	<p style="text-align: right;">177</p> <p>1 THE WITNESS: Depending on the</p> <p>2 week. Some weeks were above, some weeks were</p> <p>3 below.</p> <p>4 BY MR. STUEVE:</p> <p>5 Q. But on overall basis over a period</p> <p>6 of years, would it typically trend below or</p> <p>7 above?</p> <p>8 <b>A. Below.</b></p> <p>9 Q. Okay. And you indicated that</p> <p>10 there had been a shift from Dutch Farms from</p> <p>11 that being kind of evenly split for their</p> <p>12 commodity purchases to almost all Midwest Urner</p> <p>13 Barry; is that correct?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Have they ever told you why?</p> <p>16 <b>A. Yeah. I think their customers --</b></p> <p>17 <b>from what Bruce back when the change happened,</b></p> <p>18 <b>Bruce had said that his customers preferred to</b></p> <p>19 <b>follow the Midwest market. They wanted to</b></p> <p>20 <b>know -- they understood the Midwest market and</b></p> <p>21 <b>knew it and they wanted to use the Urner Barry.</b></p> <p>22 Q. Okay. Now, what about Save-A-Lot?</p>



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<p style="text-align: right;">178</p> <p>1 Can you describe what kind of a business they</p> <p>2 had?</p> <p>3 <b>A. Yeah. Save-A-Lot is a subsidiary</b></p> <p>4 <b>of Super Value and they're located in Earth</b></p> <p>5 <b>City, Missouri. They're made up -- they have</b></p> <p>6 <b>approximately 1,200 stores, I believe, which</b></p> <p>7 <b>about 75 percent are franchisees and the</b></p> <p>8 <b>remainder are company owned stores.</b></p> <p>9 Q. Okay. So about 75 percent</p> <p>10 franchisees and 25 percent company owned; is</p> <p>11 that right?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And the franchisees would use the</p> <p>14 Super Value brand name; is that right, on their</p> <p>15 stores?</p> <p>16 <b>A. Well, today what we pack for</b></p> <p>17 <b>Save-A-Lot is a brand called Coburn Farms, which</b></p> <p>18 <b>is a Save-A-Lot brand.</b></p> <p>19 Q. As far as the franchisees on the</p> <p>20 stores, the name of the stores?</p> <p>21 <b>A. They would be Save-A-Lot. The</b></p> <p>22 <b>name would be Save-A-Lot.</b></p>	<p style="text-align: right;">180</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. The 2000 time period?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Are they a customer today?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And what market do they use with</p> <p>7 respect to your commodity egg sales?</p> <p>8 <b>A. They use the Midwest Urner Barry,</b></p> <p>9 <b>the Northeast Urner Barry, the Southeast Urner</b></p> <p>10 <b>Barry and the South Central Urner Barry and the</b></p> <p>11 <b>California Urner Barry markets.</b></p> <p>12 Q. Okay. And you have separate bids</p> <p>13 with respect to each of those markets that would</p> <p>14 use those Urner Barry market prices?</p> <p>15 <b>A. It's -- I don't have a separate</b></p> <p>16 <b>bid. I've got -- they have warehouses in each</b></p> <p>17 <b>one of the different regions.</b></p> <p>18 Q. Right.</p> <p>19 <b>A. The region the warehouse falls in</b></p> <p>20 <b>determines the market they purchase off of.</b></p> <p>21 Q. Right. But the bid that you put</p> <p>22 in when you're negotiating, would there then be</p>
<p style="text-align: right;">179</p> <p>1 Q. And those franchisees, would they</p> <p>2 purchase then a broad array of grocery products</p> <p>3 from the Save-A-Lot company?</p> <p>4 MR. MONICA: Objection to the term</p> <p>5 franchisee. Calls for a legal conclusion. You</p> <p>6 can answer.</p> <p>7 THE WITNESS: Could you repeat the</p> <p>8 question, just make sure I'm clear.</p> <p>9 (The record was read as</p> <p>10 requested.)</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. STUEVE:</p> <p>13 Q. Okay. And you would deal with the</p> <p>14 company headquarters in bidding on both</p> <p>15 commodity and specialty eggs; is that right?</p> <p>16 <b>A. They buy no specialty eggs, but</b></p> <p>17 <b>commodity, yes.</b></p> <p>18 Q. Okay. And in 2000 were they</p> <p>19 buying commodity eggs from Rose Acre?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. And have you had them as a</p> <p>22 customer throughout?</p>	<p style="text-align: right;">181</p> <p>1 a separate bid price for each of those</p> <p>2 distribution centers depending on which Urner</p> <p>3 Barry market they're using?</p> <p>4 MR. MONICA: Objection. Vague.</p> <p>5 You can answer.</p> <p>6 THE WITNESS: The -- the bid price</p> <p>7 is the same. The difference is the regional</p> <p>8 markets.</p> <p>9 BY MR. STUEVE:</p> <p>10 Q. So the bid price, when you say the</p> <p>11 bid price is the same, what do you mean?</p> <p>12 <b>A. The discount to the Urner Barry</b></p> <p>13 <b>market.</b></p> <p>14 Q. Okay. Would be the same?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Okay. And what is that discount?</p> <p>17 MR. MONICA: Objection as to time.</p> <p>18 THE WITNESS: Yeah. For what time</p> <p>19 period?</p> <p>20 BY MR. STUEVE:</p> <p>21 Q. Well, let's just take currently?</p> <p>22 <b>A. Okay. Currently the -- it's</b></p>

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<p style="text-align: right;">182</p> <p>1 <b>different for different products.</b></p> <p>2 Q. Talking about shell eggs?</p> <p>3 <b>A. Yeah. For the different items</b></p> <p>4 <b>that they purchase. They -- it's not a one</b></p> <p>5 <b>price.</b></p> <p>6 Q. Okay. So let's break it up.</p> <p>7 <b>A. Okay.</b></p> <p>8 Q. Why don't you walk me through it?</p> <p>9 <b>A. Okay. The base price for large</b></p> <p>10 <b>eggs is -- let me think, 27 back.</b></p> <p>11 Q. And that would be 27 back from the</p> <p>12 Urner Barry market and which Urner Barry market</p> <p>13 would be used would depend on where their</p> <p>14 distribution center was located; fair enough?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. All right. And how does that</p> <p>17 break out?</p> <p>18 <b>A. Medium's are 25 back.</b></p> <p>19 Q. Okay. So you've just identified</p> <p>20 the base was the large egg. Would that be</p> <p>21 white?</p> <p>22 <b>A. White large. Correct.</b></p>	<p style="text-align: right;">184</p> <p>1 BY MR. STUEVE:</p> <p>2 Q. Okay. And the prior bid that you</p> <p>3 had in place with Save-A-Lot, how long had that</p> <p>4 been in place?</p> <p>5 MR. MONICA: Object as to form.</p> <p>6 THE WITNESS: Prior to this</p> <p>7 current bid, I don't recall exactly. It's --</p> <p>8 there could have been pricing changes over the</p> <p>9 years. We've had the account so long that I</p> <p>10 can't remember each time we change. I really --</p> <p>11 I recall the last one, but, you know, prior to</p> <p>12 that.</p> <p>13 BY MR. STUEVE:</p> <p>14 Q. Would you go to your price sheet</p> <p>15 folder to refresh your recollection?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. All right. And do you know if</p> <p>18 that's been provided to counsel?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Do you remember when you provided</p> <p>21 it to him?</p> <p>22 <b>A. When they scanned all my file</b></p>
<p style="text-align: right;">183</p> <p>1 Q. White large at 27 back, which</p> <p>2 means \$0.27 back from the applicable Urner Barry</p> <p>3 market?</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. And then the next break out would</p> <p>6 be medium white?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And what is that discount?</p> <p>9 <b>A. 25 back.</b></p> <p>10 Q. All right. And in-house is the</p> <p>11 break out?</p> <p>12 <b>A. The only other item, they buy a</b></p> <p>13 <b>few brown eggs for one division in New York and</b></p> <p>14 <b>I'm not off the top of my head exactly what that</b></p> <p>15 <b>back is. I would -- I don't remember exactly</b></p> <p>16 <b>what that is.</b></p> <p>17 Q. Okay. And how long have you had</p> <p>18 this bid structure in place with Save-A-Lot?</p> <p>19 MR. MONICA: Objection as to form.</p> <p>20 You can answer.</p> <p>21 THE WITNESS: This particular bid</p> <p>22 has been a little over two years.</p>	<p style="text-align: right;">185</p> <p>1 <b>documents.</b></p> <p>2 Q. When was that?</p> <p>3 <b>A. I think it's been a couple years</b></p> <p>4 <b>ago.</b></p> <p>5 Q. Okay. You had indicated earlier</p> <p>6 that you had been told to preserve your</p> <p>7 documents. Do you remember that?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Do you remember when you were</p> <p>10 told?</p> <p>11 <b>A. First time was maybe five years</b></p> <p>12 <b>ago.</b></p> <p>13 Q. Anything more specific than that?</p> <p>14 <b>A. Well, I don't remember the exact</b></p> <p>15 <b>time. It was when I was notified by counsel to</b></p> <p>16 <b>start preserving.</b></p> <p>17 Q. Was that communication orally or</p> <p>18 in writing?</p> <p>19 <b>A. Both.</b></p> <p>20 Q. And do you remember what the</p> <p>21 specific instructions were?</p> <p>22 <b>A. Not everything in the document,</b></p>

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<p style="text-align: right;">186</p> <p>1 <b>but it was basically anything -- any e-mails or</b>  2 <b>letters or communications with customers in</b>  3 <b>regard to pricing and production that I was</b>  4 <b>supposed to hold on to.</b>  5 Q. Do you have -- sitting here today,  6 do you have a specific recollection of all the  7 things that were detailed in there?  8 <b>A. Like I said, they -- they</b>  9 <b>preserved all my e-mails and I have a filing</b>  10 <b>cabinet in my office and they scanned it, to my</b>  11 <b>knowledge, they scanned every document in the</b>  12 <b>filing cabinet.</b>  13 Q. Do you remember specifically what  14 was in the instruction to you, in the written  15 instruction as far as the scope of preservation?  16 <b>A. Yes. All of what I just said.</b>  17 Q. Well, on a going forward basis, is  18 it your testimony that you have kept every  19 e-mail that you have related to any of your  20 customers?  21 <b>A. Related to my customers in regard</b>  22 <b>to pricing. Yes.</b></p>	<p style="text-align: right;">188</p> <p>1 though, is there -- are there any e-mails that  2 you get on a daily basis from customers that you  3 don't keep?  4 <b>A. Specifically what -- I mean?</b>  5 Q. Just any. Is it your testimony  6 that you keep all communications with all your  7 customers?  8 <b>A. No. I said I didn't -- I don't</b>  9 <b>think I kept all the art work and things like</b>  10 <b>that.</b>  11 Q. What else didn't you keep?  12 <b>A. I don't know. I get so many</b>  13 <b>e-mails. Specific to customers. We're talking</b>  14 <b>about -- I don't recall which ones -- what I</b>  15 <b>didn't keep, I mean, I get so many e-mails. I</b>  16 <b>don't -- I don't know anything specific.</b>  17 Q. Okay. Now, with respect to the  18 Save-A-Lot, is it your testimony then you would  19 have the pricing information going back to 2000?  20 <b>A. Yes.</b>  21 Q. Okay. And that would have been --  22 you would have kept that in hard copy or?</p>
<p style="text-align: right;">187</p> <p>1 Q. Right. But if it doesn't relate  2 to pricing have you deleted e-mails?  3 <b>A. The pricing production, I don't</b>  4 <b>think I've kept every art work e-mail I've had.</b>  5 Q. Art work meaning ad,  6 advertisement?  7 <b>A. No.</b>  8 Q. What do you mean?  9 <b>A. Meaning cartons if someone changed</b>  10 <b>an art work. I have some. I don't have every</b>  11 <b>one.</b>  12 Q. What about communications you've  13 had back and forth about issues related to your  14 eggs? Have you kept all those?  15 <b>A. Yeah. I've got quality documents.</b>  16 <b>I've got store check records. I keep every one</b>  17 <b>of those. I've got tens of thousands of e-mails</b>  18 <b>saved. I try to keep everything.</b>  19 Q. Is that your practice, to do that?  20 <b>A. After I was told to keep them.</b>  21 <b>Yes.</b>  22 Q. All right. What I'm asking you,</p>	<p style="text-align: right;">189</p> <p>1 <b>A. Hard copy and on my computer.</b>  2 Q. Okay.  3 <b>A. Not -- probably -- sometimes when</b>  4 <b>I update the computer if I get a new one I print</b>  5 <b>a hard copy and it's in my filing cabinet.</b>  6 Q. And who's been your primary  7 contact with Save-A-Lot?  8 <b>A. Me.</b>  9 Q. No. I mean at Save-A-Lot?  10 <b>A. Oh, sorry. In that period it was</b>  11 <b>Kim Fromme, F-R-O-M-M-E.</b>  12 Q. Is she still with Save-A-Lot?  13 <b>A. Yes.</b>  14 Q. Okay. And would she approach you  15 about certain promotions that they would like to  16 run and ask if you would give certain discount  17 off of the negotiated bid price?  18 MR. MONICA: Objection. Vague.  19 THE WITNESS: No.  20 BY MR. STUEVE:  21 Q. Did they ever run -- did they ever  22 come to you with ideas on how to increase their</p>

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<p style="text-align: right;">190</p> <p>1 volume of purchases from Rose Acre?</p> <p>2 MR. MONICA: Objection. Vague.</p> <p>3 You can answer.</p> <p>4 THE WITNESS: No. Not</p> <p>5 necessarily.</p> <p>6 BY MR. STUEVE:</p> <p>7 Q. Did they ever run any promotions</p> <p>8 involving Rose Acre's eggs?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And how would you be aware</p> <p>11 of that?</p> <p>12 A. The broker would ask me.</p> <p>13 Q. And who was the broker?</p> <p>14 A. During that period we had two</p> <p>15 different brokers.</p> <p>16 Q. Okay.</p> <p>17 A. Early in 2000 that would have been</p> <p>18 Peter Kroner from Marketing Concepts, KRONER.</p> <p>19 And sometime during that period, I don't</p> <p>20 remember the exact year, but we switched brokers</p> <p>21 to Steve Dieso was the broker, but his company</p> <p>22 name was -- I can't think of it off the top of</p>	<p style="text-align: right;">192</p> <p>1 MR. MONICA: Objection.</p> <p>2 THE WITNESS: It was my choice to</p> <p>3 go back to Marketing Concepts.</p> <p>4 BY MR. STUEVE:</p> <p>5 Q. Okay. Whose choice was it to use</p> <p>6 Steve Dieso?</p> <p>7 A. It was my choice. He was our</p> <p>8 broker of record for that period of time.</p> <p>9 Q. Why did you decide to go back to</p> <p>10 Marketing Concepts?</p> <p>11 A. Honest, I like working with Peter</p> <p>12 Kroner, Marketing Concepts better. I think he</p> <p>13 did a better job representing Rose Acre at</p> <p>14 Save-A-Lot.</p> <p>15 Q. Now, were there any other brokers</p> <p>16 as head of sales that you used besides these two</p> <p>17 companies during the 2000 to 2012 timeframe?</p> <p>18 MR. MONICA: Objection.</p> <p>19 THE WITNESS: For which products?</p> <p>20 BY MR. STUEVE:</p> <p>21 Q. Shell eggs?</p> <p>22 A. 2000 to 2012. Yes.</p>
<p style="text-align: right;">191</p> <p>1 my head. Steve Dieso, he was a broker in</p> <p>2 St. Louis. Peter Kroner was a broker in</p> <p>3 Chicago.</p> <p>4 Q. Who is the current broker?</p> <p>5 A. Marketing Concepts. They took</p> <p>6 over the role back from Steve Dieso about two</p> <p>7 years ago. A little over two years. Maybe</p> <p>8 three now.</p> <p>9 Q. During the 2000 to 2012 time</p> <p>10 period who was the broker?</p> <p>11 A. During different times of that</p> <p>12 year it was Marketing Concepts would have been</p> <p>13 in 2000, but sometime during that timeframe</p> <p>14 Steve Dieso was for a couple years.</p> <p>15 Q. And how do you spell his last</p> <p>16 name?</p> <p>17 A. D-I-E-S-O. Dieso.</p> <p>18 Q. And you said he's out of</p> <p>19 St. Louis?</p> <p>20 A. Yes.</p> <p>21 Q. And why did you -- why are you no</p> <p>22 longer using him?</p>	<p style="text-align: right;">193</p> <p>1 Q. Okay. Who were they?</p> <p>2 A. Oh. Daymond &amp; Associates.</p> <p>3 Q. Can you spell that for me, please?</p> <p>4 A. I believe it's D-A-Y-M-O-N-D.</p> <p>5 Q. And where are they located?</p> <p>6 A. I don't actually know their</p> <p>7 headquarters.</p> <p>8 Q. Okay. Where was the person --</p> <p>9 A. They're a national broker.</p> <p>10 Q. Where was the person you worked</p> <p>11 with out of at Daymond Associates?</p> <p>12 A. Cincinnati.</p> <p>13 Q. Okay. And for what time period</p> <p>14 did you use Daymond Associates?</p> <p>15 A. I think the first -- I don't know</p> <p>16 the exact years. It's been for at least</p> <p>17 six years or so.</p> <p>18 Q. During that 2000 to 2012</p> <p>19 timeframe?</p> <p>20 A. Yes.</p> <p>21 Q. All right. And are they still</p> <p>22 working with Rose Acre?</p>

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<p style="text-align: right;">194</p> <p>1           <b>A. Yes.</b></p> <p>2           Q. And who are you working with at</p> <p>3           Daymond Associates?</p> <p>4           <b>A. The person?</b></p> <p>5           Q. Yeah.</p> <p>6           <b>A. I don't know. I don't directly</b></p> <p>7           <b>work with them.</b></p> <p>8           Q. Who does?</p> <p>9           <b>A. Amanda.</b></p> <p>10          Q. Any other brokers?</p> <p>11          MR. MONICA: Before you answer,</p> <p>12          I'm going to object and request for a</p> <p>13          clarification. I'm not sure if we're still on</p> <p>14          Save-A-Lot brokers or more generally. I think</p> <p>15          that might help.</p> <p>16          THE WITNESS: Are we talking about</p> <p>17          all brokers?</p> <p>18          BY MR. STUEVE:</p> <p>19          Q. Yeah. That's what you understood;</p> <p>20          didn't you?</p> <p>21          <b>A. Yes.</b></p> <p>22          Q. Okay.</p>	<p style="text-align: right;">196</p> <p>1           Q. So the more they sell the more</p> <p>2           they make?</p> <p>3           <b>A. The more eggs we sell to a</b></p> <p>4           <b>customer that they would be representing us on,</b></p> <p>5           <b>yes, the more they would make.</b></p> <p>6           Q. And which customers are assigned</p> <p>7           to Daymond &amp; Associates?</p> <p>8           <b>A. Kroger and they do Topco,</b></p> <p>9           <b>T-O-P-C-O.</b></p> <p>10          Q. And what is Topco?</p> <p>11          <b>A. Topco is a buying group that's</b></p> <p>12          <b>made up of a lot of -- they represent a lot of</b></p> <p>13          <b>regional grocery chains.</b></p> <p>14          Q. Where are they located?</p> <p>15          <b>A. Chicago.</b></p> <p>16          Q. And how long has Topco been a</p> <p>17          customer?</p> <p>18          <b>A. Oh.</b></p> <p>19          Q. At least 2000?</p> <p>20          <b>A. No. Probably somewhere in that</b></p> <p>21          <b>period, but it would have been early 2000s,</b></p> <p>22          <b>maybe 2004, somewhere in that range.</b></p>
<p style="text-align: right;">195</p> <p>1           <b>A. I remember -- if you want I</b></p> <p>2           <b>remember Steve's company.</b></p> <p>3           Q. Okay.</p> <p>4           <b>A. Alliance.</b></p> <p>5           Q. All right.</p> <p>6           <b>A. I think that's all the brokers we</b></p> <p>7           <b>worked with.</b></p> <p>8           Q. Okay. With respect to Daymond</p> <p>9           Associates, what types of services do they</p> <p>10          provide?</p> <p>11          <b>A. They work in the supermarkets and</b></p> <p>12          <b>provide retail -- they work within the retail in</b></p> <p>13          <b>the supermarkets and they would do like</b></p> <p>14          <b>checking, stocking the shelves. They review the</b></p> <p>15          <b>products on the shelves and if -- so I guess</b></p> <p>16          <b>manage the retail egg case would be the best way</b></p> <p>17          <b>to describe it.</b></p> <p>18          Q. For Rose Acre?</p> <p>19          <b>A. Yes.</b></p> <p>20          Q. How are they compensated?</p> <p>21          <b>A. They get paid a price per dozen</b></p> <p>22          <b>for their work.</b></p>	<p style="text-align: right;">197</p> <p>1           Q. Have they always had the name</p> <p>2           Topco?</p> <p>3           <b>A. That's the only way I've known</b></p> <p>4           <b>them. I can't speak prior to when we did</b></p> <p>5           <b>business with them.</b></p> <p>6           Q. Who's your principal contact</p> <p>7           there?</p> <p>8           <b>A. It is -- I can see her face -- I</b></p> <p>9           <b>can't think of her name at this time.</b></p> <p>10          Q. Does anyone else work with Topco?</p> <p>11          <b>A. Amanda.</b></p> <p>12          Q. And when you say buying group, are</p> <p>13          they similar to Associated Wholesale Grocers?</p> <p>14          MR. MONICA: Objection. You can</p> <p>15          answer.</p> <p>16          THE WITNESS: Yeah. I actually</p> <p>17          don't know.</p> <p>18          BY MR. STUEVE:</p> <p>19          Q. Okay. You do know that they buy</p> <p>20          grocery products on behalf of or they buy</p> <p>21          grocery products and then resell them to</p> <p>22          independent retail grocers; is that correct?</p>

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<p style="text-align: right;">198</p> <p>1           <b>A. I know they represent several</b>  2           <b>supermarket chains. The way I would think -- I</b>  3           <b>honestly don't know their exact structure, but</b>  4           <b>the way I would view it different is they</b>  5           <b>represent chain supermarkets, where I don't know</b>  6           <b>with AWG as their members, I don't know if</b>  7           <b>they're the same or not. I don't know if it's</b>  8           <b>more of smaller chains or big chains. I know</b>  9           <b>there's big chains in Topco.</b></p> <p>10           Q. Let me ask you this. With respect  11           to Topco, though, are the sales that Rose Acre  12           makes, are they invoiced and shipped to Topco's  13           distribution centers?</p> <p>14           MR. MONICA: Objection.</p> <p>15           THE WITNESS: I -- one, I don't  16           know -- I'm not -- I have no knowledge of the  17           Topco distribution centers as far as that  18           product. They -- we have a couple different  19           structures with Topco.</p> <p>20           BY MR. STUEVE:</p> <p>21           Q. Okay. What are they?</p> <p>22           <b>A. There's accounts within Topco that</b></p>	<p style="text-align: right;">200</p> <p>1           <b>A. Approximately 30 loads. And it</b>  2           <b>could go higher. 30 plus.</b></p> <p>3           Q. All right. Each load, how many  4           cases are there?</p> <p>5           <b>A. Approximately 840.</b></p> <p>6           Q. Now, when you deliver those loads  7           do you know where those loads go?</p> <p>8           MR. MONICA: Objection.</p> <p>9           BY MR. STUEVE:</p> <p>10           Q. Do they pick up or both?</p> <p>11           <b>A. Both.</b></p> <p>12           Q. Okay. So let's break it up.  13           Approximately what percentage of the Topco  14           business does Topco pick it up?</p> <p>15           <b>A. Topco don't pick up any direct, as</b>  16           <b>far as -- that I know of. That's actually</b>  17           <b>Topco. But their supermarkets that they</b>  18           <b>represent, about 70 -- a little -- maybe</b>  19           <b>80 percent is picked up and 20 percent we</b>  20           <b>deliver.</b></p> <p>21           Q. And the 20 percent that you  22           deliver, where are you delivering them?</p>
<p style="text-align: right;">199</p> <p>1           <b>we invoice direct to Topco and there's accounts</b>  2           <b>in Topco that we direct -- we invoice direct to</b>  3           <b>the supermarket.</b></p> <p>4           Q. Okay. When is the -- with respect  5           to Topco, do you sell both commodity and  6           specialty eggs?</p> <p>7           <b>A. Yes.</b></p> <p>8           Q. Okay. And are they one of the  9           larger customers of Rose Acres?</p> <p>10           <b>A. Today, yes.</b></p> <p>11           Q. And approximately how much volume  12           do you do on an annual basis?</p> <p>13           <b>A. Volume as in?</b></p> <p>14           Q. When you -- how do you -- how do  15           you internally define a larger customer?</p> <p>16           <b>A. On how many truckloads they buy</b>  17           <b>per week.</b></p> <p>18           Q. All right. How many truckloads  19           per week are you selling to them?</p> <p>20           <b>A. On the ones we invoice them direct</b>  21           <b>and the ones we invoice the retailer?</b></p> <p>22           Q. Yeah. Uh-huh.</p>	<p style="text-align: right;">201</p> <p>1           <b>A. To Laredo, Texas.</b></p> <p>2           Q. And what is in Laredo, Texas?</p> <p>3           <b>A. Their customer, Topco's.</b></p> <p>4           Q. What customer is it?</p> <p>5           <b>A. Larroc.</b></p> <p>6           Q. Can you spell it for me, sir?</p> <p>7           <b>A. L-A-R-R-O-C.</b></p> <p>8           Q. Is it their distribution center  9           there?</p> <p>10           <b>A. They have a cross dock center</b>  11           <b>there.</b></p> <p>12           Q. So you're not actually delivering  13           any of your eggs directly to any retail grocery  14           store; is that correct?</p> <p>15           MR. MONICA: Objection.</p> <p>16           THE WITNESS: No.</p> <p>17           MR. MONICA: Go ahead.</p> <p>18           THE WITNESS: I guess -- for  19           Topco?</p> <p>20           BY MR. STUEVE:</p> <p>21           Q. Yeah.</p> <p>22           <b>A. No.</b></p>



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<p style="text-align: right;">202</p> <p>1 Q. Is that correct, you're not?</p> <p>2 <b>A. I'm not. Not for Topco.</b></p> <p>3 Q. Okay. Now, of the 80 percent that</p> <p>4 are being picked up by Topco's retail grocers,</p> <p>5 are they picking them up from what facilities?</p> <p>6 <b>A. For all their customers the</b></p> <p>7 <b>pickup?</b></p> <p>8 Q. The 80 percent?</p> <p>9 <b>A. The different farms?</b></p> <p>10 Q. Uh-huh.</p> <p>11 <b>A. They pick up in our three farms in</b></p> <p>12 <b>Iowa, Winterset, Iowa, Guthrie Center, Iowa, and</b></p> <p>13 <b>Stuart Iowa, and they pick up at Lincoln County</b></p> <p>14 <b>egg farm in Missouri.</b></p> <p>15 Q. Now, with respect to Topco, do you</p> <p>16 know -- do you know anything about whether or</p> <p>17 not the customers, whether or not they get the</p> <p>18 rebates or patronage from Topco if they buy</p> <p>19 their eggs through Topco?</p> <p>20 <b>A. I have no knowledge of that.</b></p> <p>21 Q. One way or the other?</p> <p>22 <b>A. I have no knowledge of that.</b></p>	<p style="text-align: right;">204</p> <p>1 promotion of Rose Acre's eggs at the store</p> <p>2 level?</p> <p>3 MR. MONICA: Objection.</p> <p>4 THE WITNESS: Not directly from</p> <p>5 me. Not from Rose Acres.</p> <p>6 BY MR. STUEVE:</p> <p>7 Q. So, for example, if one of the</p> <p>8 large grocery chains that purchased through</p> <p>9 Topco wanted to run a promotion on Rose Acre's</p> <p>10 eggs, would they reach out to the broker or they</p> <p>11 would reach out directly to Rose Acre to discuss</p> <p>12 that?</p> <p>13 MR. MONICA: Object to the form.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: They would reach out</p> <p>16 to Topco corporate and Topco corporate would</p> <p>17 reach out to Amanda.</p> <p>18 BY MR. STUEVE:</p> <p>19 Q. Okay. And when Topco would reach</p> <p>20 out to Amanda what types of things would Topco</p> <p>21 typically ask Rose Acre to do with respect to</p> <p>22 the promotion?</p>
<p style="text-align: right;">203</p> <p>1 Q. Okay. When they are -- do you</p> <p>2 deal directly with any -- and make any direct</p> <p>3 sales to any of Topco's customers?</p> <p>4 <b>A. What do you mean by direct sales?</b></p> <p>5 Q. Well, so you've got the -- you</p> <p>6 said 80 percent -- let me ask you this.</p> <p>7 When you're dealing with Topco,</p> <p>8 who's the primary person at Rose Acre that's</p> <p>9 dealing with Topco?</p> <p>10 <b>A. Amanda.</b></p> <p>11 Q. And she's assisted with the</p> <p>12 broker; is that right?</p> <p>13 <b>A. In regards to what?</b></p> <p>14 Q. There's a broker involved with</p> <p>15 that account; right?</p> <p>16 <b>A. For the retail -- for the display</b></p> <p>17 <b>cases.</b></p> <p>18 Q. Okay. And what does the broker do</p> <p>19 for Topco's customers?</p> <p>20 <b>A. They work at the store level and</b></p> <p>21 <b>take care of the display cases.</b></p> <p>22 Q. Okay. Do they assist in the</p>	<p style="text-align: right;">205</p> <p>1 MR. MONICA: Objection. You can</p> <p>2 answer.</p> <p>3 THE WITNESS: Topco's came to Rose</p> <p>4 Acres and asked that could we provide a discount</p> <p>5 on eggs for a particular promotion or for a time</p> <p>6 period to one of their customers.</p> <p>7 BY MR. STUEVE:</p> <p>8 Q. Okay. And how would that be</p> <p>9 communicated from Topco to Rose Acre?</p> <p>10 <b>A. The girl is Kathy. I'll think of</b></p> <p>11 <b>her last name. Kathy would contact Amanda or</b></p> <p>12 <b>Amanda and Matt now because Matt assists Amanda</b></p> <p>13 <b>with that. So and Kathy would communicate that</b></p> <p>14 <b>back to them to say -- is there something we</b></p> <p>15 <b>could do for a promotion.</b></p> <p>16 Q. All right. And then would they</p> <p>17 consult you about that?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And you would then authorize a</p> <p>20 certain discount off of the existing bid price?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. All right. And what else -- what</p>

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<p style="text-align: right;">206</p> <p>1 other information -- would that then be</p> <p>2 communicated back to Topco?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. So you would be aware of the</p> <p>5 timeframe in which the promotion would be</p> <p>6 running; is that correct?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. You would be aware of the discount</p> <p>9 that was being provided to the customer; right?</p> <p>10 <b>A. I would be aware of the discount</b></p> <p>11 <b>per dozen that we offer. Correct.</b></p> <p>12 Q. And your understanding is that</p> <p>13 that discount would be offered to Topco's</p> <p>14 customer; correct?</p> <p>15 <b>A. Yes.</b></p> <p>16 MR. MONICA: Object.</p> <p>17 BY MR. STUEVE:</p> <p>18 Q. All right. And then would that</p> <p>19 also give you an indication of perhaps the</p> <p>20 volume that may be being generated from that</p> <p>21 promotion?</p> <p>22 <b>A. No.</b></p>	<p style="text-align: right;">208</p> <p>1 a profit.</p> <p>2 BY MR. STUEVE:</p> <p>3 Q. I'm not asking what you always do.</p> <p>4 I'm asking your hope and intent is that by</p> <p>5 offering this discount to Topco's customers that</p> <p>6 will drive volume and hopefully ultimately</p> <p>7 result in a profit to Rose Acres; fair enough?</p> <p>8 MR. MONICA: Objection.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. STUEVE:</p> <p>11 Q. So you're out of the goodness of</p> <p>12 your heart providing this discounted to Topco's</p> <p>13 customers; is that your testimony?</p> <p>14 MR. MONICA: Objection.</p> <p>15 Argumentative.</p> <p>16 THE WITNESS: What's the question?</p> <p>17 MR. STUEVE: Read him back the</p> <p>18 question.</p> <p>19 MR. MONICA: Same objection. You</p> <p>20 can answer.</p> <p>21 THE WITNESS: I offer the discount</p> <p>22 because of my relationship with Topco.</p>
<p style="text-align: right;">207</p> <p>1 Q. It was your hope, though; right,</p> <p>2 that by providing the discount off of the bid</p> <p>3 price that that would drive volume to those</p> <p>4 stores; correct?</p> <p>5 MR. MONICA: Objection.</p> <p>6 THE WITNESS: Not always. No.</p> <p>7 BY MR. STUEVE:</p> <p>8 Q. I'm not asking actually. I asking</p> <p>9 you, you're in the business to make a profit;</p> <p>10 right, Mr. Hinton?</p> <p>11 <b>A. I'm in the business to sell eggs.</b></p> <p>12 Q. At a profit; right?</p> <p>13 <b>A. Hopefully then they would make a</b></p> <p>14 <b>profit. Yes.</b></p> <p>15 Q. So one of the reasons why you</p> <p>16 would participate in a promotion in which you</p> <p>17 were discounting your eggs is that that would</p> <p>18 drive volume and increase the volume of</p> <p>19 purchases of your eggs so hopefully you could</p> <p>20 make a profit; correct?</p> <p>21 MR. MONICA: Objection.</p> <p>22 THE WITNESS: We don't always make</p>	<p style="text-align: right;">209</p> <p>1 BY MR. STUEVE:</p> <p>2 Q. And you're hoping that that</p> <p>3 relationship will grow; correct?</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. And if that relationship grows it</p> <p>6 means greater volume; correct?</p> <p>7 MR. MONICA: Objection.</p> <p>8 THE WITNESS: If the relationship</p> <p>9 grows it hopefully will result in greater</p> <p>10 volume.</p> <p>11 BY MR. STUEVE:</p> <p>12 Q. And what you're hoping is that</p> <p>13 will result in greater profits to Rose Acre;</p> <p>14 fair enough?</p> <p>15 <b>A. On -- are we talking back to a</b></p> <p>16 <b>specific discount or are we talking about the</b></p> <p>17 <b>program overall?</b></p> <p>18 Q. I'm going to ask you to read back</p> <p>19 the question and I'll give you one more chance</p> <p>20 to answer it and I'll move on.</p> <p>21 (The record was read as</p> <p>22 requested.)</p>

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<p style="text-align: right;">210</p> <p>1 MR. MONICA: Objection. Vague. 2 Please answer. 3 THE WITNESS: We're -- I'm not 4 guaranteed any profits. 5 BY MR. STUEVE: 6 Q. That's not my question. 7 My question is real simple. 8 You testified that you would offer 9 the discount with the hope of growing the 10 relationship with Topco; correct? 11 <b>A. I offer the discount to work with 12 the customer, specifically we're talking about 13 Topco and what they ask for. I offer them a 14 discount because they asked for it.</b> 15 Q. And you -- you're hoping, though, 16 by meeting their request and providing the 17 discount that that will grow the relationship. 18 You've already admitted that would be one of the 19 reasons why you did it; is that correct? 20 <b>A. I feel strongly that that would 21 help with growing the relationship by working 22 with my customers. Yes.</b></p>	<p style="text-align: right;">212</p> <p>1 approximately 2:19 p.m. and we are back on the 2 record. 3 BY MR. STUEVE: 4 Q. I want to be clear. Topco has 5 been a customer of Rose Acre for several years 6 now; is that correct? 7 <b>A. Yes.</b> 8 Q. And you, along with Amanda 9 Jackson, have been the primary contact; is that 10 right? 11 <b>A. Yes.</b> 12 Q. Have you ever been to their 13 headquarters? 14 <b>A. I have not -- no. I'm sorry. I 15 was at their old headquarters years ago, like 16 prior -- probably prior to 2000.</b> 17 Q. Okay. 18 <b>A. One time.</b> 19 Q. And have they been a customer of 20 Rose Acre since 2000? 21 <b>A. No. It was, as I think I stated 22 earlier, it was in that '04/'05 area, I believe</b></p>
<p style="text-align: right;">211</p> <p>1 Q. And what you're hoping is by 2 growing the relationship that that is going to 3 grow the volume of sales to that customer; fair 4 enough? 5 <b>A. If they indeed expand, yes. We'll 6 grow sales.</b> 7 Q. And then what you're hoping is 8 when you grow those sales that that will 9 increase the profits for Rose Acre; fair enough? 10 <b>A. I'll say it -- it has potential to 11 increase the profits.</b> 12 MR. STUEVE: I need to take a 13 restroom break. 14 MR. MONICA: Okay. 15 MR. STUEVE: Do you want to start 16 back up in 10 minutes? 17 MR. MONICA: Yeah. 18 THE VIDEOGRAPHER: The time is 19 2:09 p.m. and we're going off the record. 20 (A brief recess was taken.) 21 THE VIDEOGRAPHER: This is the 22 start of media unit number four. The time is</p>	<p style="text-align: right;">213</p> <p>1 <b>it was.</b> 2 Q. You were soliciting their business 3 prior to that time; is that correct? 4 <b>A. Yes.</b> 5 Q. Who was their principal shell egg 6 supplier? 7 <b>A. When?</b> 8 Q. When you were trying to solicit 9 their business? 10 <b>A. Back in the '90s?</b> 11 Q. Uh-huh. 12 <b>A. I don't really know. I think -- I 13 think they -- I know today they have multiple 14 suppliers, so.</b> 15 Q. Who else supplies them besides 16 Rose Acre? 17 <b>A. I know Hillandale supplies them. 18 I guess -- I would be speculating. I honestly 19 don't know all their suppliers, but I've got 20 some ideas who may supply them, but I don't know 21 for a fact.</b> 22 Q. Who are the ones you think may be</p>

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<p style="text-align: right;">214</p> <p>1 supplying them?</p> <p>2 <b>A. I think on the East Coast Sauder.</b></p> <p>3 <b>Krieder. I think Krieder may supply them,</b></p> <p>4 <b>possibly Weavers. Moark may be a supplier to</b></p> <p>5 <b>them. Cal-maine, possibly. And those would be</b></p> <p>6 <b>the ones that come to mind that I would think</b></p> <p>7 <b>just, you know, because of where there members</b></p> <p>8 <b>geographic areas may be their suppliers.</b></p> <p>9 Q. When you talk about members,</p> <p>10 you're talking about Topco; right?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. You understand Hy-Vee is one of</p> <p>13 those members; right?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. There are several large grocery</p> <p>16 chains that are member owners of Topco; correct?</p> <p>17 <b>A. That are members --</b></p> <p>18 MR. MONICA: Objection.</p> <p>19 THE WITNESS: They get eggs --</p> <p>20 Topco puts out bids on eggs on several, like I</p> <p>21 said, several big regional supermarket chains.</p> <p>22 BY MR. STUEVE:</p>	<p style="text-align: right;">216</p> <p>1 <b>of a discount they would like to see for</b></p> <p>2 <b>promotion. To say no -- it depends on the</b></p> <p>3 <b>supply of eggs at the time whether I, you know,</b></p> <p>4 <b>agree to a promotion or not.</b></p> <p>5 Q. Okay. Obviously whether or not</p> <p>6 that's economically beneficial to Rose Acre is</p> <p>7 one of the factors you consider; right?</p> <p>8 <b>A. What's your definition of</b></p> <p>9 <b>economically beneficial?</b></p> <p>10 Q. Whether or not from a business</p> <p>11 standpoint it makes sense to you to give the</p> <p>12 discount that Topco is asking for?</p> <p>13 <b>A. Like I said, we determine it based</b></p> <p>14 <b>on what's our availability of eggs at the time.</b></p> <p>15 <b>If it's something -- if I think I can meet what</b></p> <p>16 <b>they're asking for and if the discount they're</b></p> <p>17 <b>asking for would make economic sense for Rose</b></p> <p>18 <b>Acres, yes.</b></p> <p>19 Q. And when you use economic sense,</p> <p>20 what do you mean by that?</p> <p>21 <b>A. The -- the amount, the promotion</b></p> <p>22 <b>they're asking for, if I think it's too much of</b></p>
<p style="text-align: right;">215</p> <p>1 Q. Now, when they're running a</p> <p>2 promotion -- when Topco is running a promotion</p> <p>3 they come to you, they ask you for a discount,</p> <p>4 and when I say you, Rose Acre, you would be</p> <p>5 involved in making that decision whether or not</p> <p>6 to provide the discount; is that correct?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And have you -- when they have</p> <p>9 approached Rose Acre, have you always agreed to</p> <p>10 do the discount for the promotion?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Okay. How often have you said no?</p> <p>13 <b>A. I don't recall.</b></p> <p>14 Q. Several times?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And why did you say no?</p> <p>17 <b>A. My -- it could be for various</b></p> <p>18 <b>reasons. It depends on the time of the year for</b></p> <p>19 <b>promotion. It depends on what our supply, if</b></p> <p>20 <b>it's something that -- if it's a promotion that</b></p> <p>21 <b>whether I think it's something we can meet.</b></p> <p>22 <b>Depends on what they're asking for. What kind</b></p>	<p style="text-align: right;">217</p> <p>1 <b>a discounted or not.</b></p> <p>2 Q. If it's too much of a discount</p> <p>3 meaning you could lose money on the deal you're</p> <p>4 not going to do it; fair enough?</p> <p>5 MR. MONICA: Objection. Form.</p> <p>6 THE WITNESS: The amount of</p> <p>7 discount doesn't determine whether I make or</p> <p>8 lose money.</p> <p>9 BY MR. STUEVE:</p> <p>10 Q. It's certainly a factor; right?</p> <p>11 <b>A. Depending on what the egg market</b></p> <p>12 <b>is at the time and what the selling price of the</b></p> <p>13 <b>eggs are.</b></p> <p>14 Q. Right. So it could only be a</p> <p>15 \$.03 discount, but depending on the egg market</p> <p>16 at the time that small discount may be too much;</p> <p>17 right?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. All right. Now, when you do agree</p> <p>20 to the promotion how is that documented within</p> <p>21 Rose Acre?</p> <p>22 <b>A. Matt or Amanda or Lindsey would</b></p>

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<p style="text-align: right;">218</p> <p>1 send an e-mail to our accounts receivable</p> <p>2 department, notifying them of the discount to be</p> <p>3 given so they could invoice the product</p> <p>4 correctly.</p> <p>5 Q. And I assume they would give them</p> <p>6 the start date of the discount and the end date?</p> <p>7 A. Yes.</p> <p>8 Q. All right. And also the specific</p> <p>9 locations that are at issue?</p> <p>10 A. The specific customer that would</p> <p>11 be -- and specific product that's being</p> <p>12 discounted.</p> <p>13 Q. All right. Now. Is it your</p> <p>14 understanding that Topco assists their members</p> <p>15 with respect to that promotion, for example, if</p> <p>16 there's advertising that's done that they assist</p> <p>17 their members in the advertising?</p> <p>18 MR. MONICA: Objection. Vague.</p> <p>19 THE WITNESS: I don't know. It</p> <p>20 doesn't involve us.</p> <p>21 BY MR. STUEVE:</p> <p>22 Q. Okay. What I'm asking you, you</p>	<p style="text-align: right;">220</p> <p>1 checks and does quality store inspections at</p> <p>2 stores that would include Topco member stores.</p> <p>3 Q. And which employee is that?</p> <p>4 A. Well, it's today, Travis Kuntz.</p> <p>5 Q. And consist with your testimony</p> <p>6 earlier, he does put on his report what the</p> <p>7 prices that those stores are selling Rose Acre</p> <p>8 eggs on his daily reports; correct?</p> <p>9 A. He does sometimes.</p> <p>10 Q. Okay. Now, does Rose Acre do any</p> <p>11 other tracking of prices, retail prices, for any</p> <p>12 of its customers?</p> <p>13 MR. MONICA: Objection.</p> <p>14 Mischaracterizes prior testimony. Also, vague</p> <p>15 as to the term tracking.</p> <p>16 THE WITNESS: Could you repeat the</p> <p>17 question.</p> <p>18 (The record was read as</p> <p>19 requested.)</p> <p>20 THE WITNESS: We don't track</p> <p>21 retail pricing for our customers.</p> <p>22 BY MR. STUEVE:</p>
<p style="text-align: right;">219</p> <p>1 have no knowledge of whether Topco assists their</p> <p>2 members with respect to the advertising of the</p> <p>3 promotion that you're agreeing to give a</p> <p>4 discount?</p> <p>5 A. No. Like I said, that just</p> <p>6 doesn't involve us. We only discuss what we</p> <p>7 sell to Topco.</p> <p>8 Q. Do you ever go to any of Topco's</p> <p>9 customers and determine what the retail price</p> <p>10 that they're selling your eggs at?</p> <p>11 A. No.</p> <p>12 Q. You've never been into any of</p> <p>13 their stores to determine their -- the egg</p> <p>14 prices that Rose Acre eggs are being sold?</p> <p>15 A. I've been in stores and I have</p> <p>16 seen prices they sell eggs at.</p> <p>17 Q. Topco member stores?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And do you have a specific</p> <p>20 employee that's assigned to inspecting and going</p> <p>21 to Topco customers' stores?</p> <p>22 A. I have an employee that does store</p>	<p style="text-align: right;">221</p> <p>1 Q. Well, sir, you've testified that</p> <p>2 Mr. Kuntz includes in his reports what the</p> <p>3 retail prices are at the facilities that he is</p> <p>4 inspecting; correct?</p> <p>5 MR. MONICA: Objection.</p> <p>6 Mischaracterizes this witness' prior testimony.</p> <p>7 THE WITNESS: I said that</p> <p>8 Mr. Kuntz sometimes puts down the retail price</p> <p>9 of the eggs when he does his quality</p> <p>10 inspections.</p> <p>11 BY MR. STUEVE:</p> <p>12 Q. Okay. Other than that information</p> <p>13 that -- well, let me ask you this.</p> <p>14 Do your other folks who do the,</p> <p>15 for example, Drew Royalty, does he include the</p> <p>16 retail prices of the facilities, the</p> <p>17 supermarkets that he inspects?</p> <p>18 A. He has on occasion.</p> <p>19 Q. Okay. And who else does the</p> <p>20 actual supermarket inspections besides Drew and</p> <p>21 Mr. Kuntz?</p> <p>22 A. Mark Anchorage.</p>

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<p style="text-align: right;">222</p> <p>1 Q. And when he does that does he also</p> <p>2 include retail pricing in his reports?</p> <p>3 <b>A. Yes. He occasionally includes</b></p> <p>4 <b>retail pricing.</b></p> <p>5 Q. Now, but it's your testimony that</p> <p>6 you do nothing with that information in those</p> <p>7 reports; right?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Okay. Now, is there any other</p> <p>10 documentation of retail prices of eggs, shell</p> <p>11 eggs, specialty eggs, that Rose Acre has in its</p> <p>12 possession besides those daily reports that on</p> <p>13 occasion will have that information?</p> <p>14 MR. MONICA: Objection.</p> <p>15 THE WITNESS: Can you repeat that.</p> <p>16 (The record was read as</p> <p>17 requested.)</p> <p>18 MR. MONICA: Same objection.</p> <p>19 THE WITNESS: I don't know for</p> <p>20 sure.</p> <p>21 BY MR. STUEVE:</p> <p>22 Q. Okay. And it's your testimony</p>	<p style="text-align: right;">224</p> <p>1 <b>A. That would -- to retail prices.</b></p> <p>2 <b>That we would have that we would</b></p> <p>3 <b>have today that we're doing? Is that what the</b></p> <p>4 <b>question?</b></p> <p>5 MR. STUEVE: Read back my</p> <p>6 question.</p> <p>7 (The record was read as</p> <p>8 requested.)</p> <p>9 MR. MONICA: Object to the form.</p> <p>10 You can answer, please.</p> <p>11 THE WITNESS: Reports. I don't</p> <p>12 know for sure.</p> <p>13 BY MR. STUEVE:</p> <p>14 Q. Who would know?</p> <p>15 <b>A. I would have to -- it would be in</b></p> <p>16 <b>my files.</b></p> <p>17 Q. What files would you look to?</p> <p>18 <b>A. Our computer files in the sales</b></p> <p>19 <b>department.</b></p> <p>20 Q. Okay. Do your brokers provide you</p> <p>21 information with respect to retail pricing?</p> <p>22 <b>A. No.</b></p>
<p style="text-align: right;">223</p> <p>1 that when you're setting pricing on commodity</p> <p>2 eggs for your customers that you do not rely on</p> <p>3 any publicly available information concerning</p> <p>4 the retail sales price of shell eggs?</p> <p>5 <b>A. Can you repeat that, make sure I'm</b></p> <p>6 <b>clear.</b></p> <p>7 <b>(The record was read as</b></p> <p>8 <b>requested.)</b></p> <p>9 THE WITNESS: Correct.</p> <p>10 BY MR. STUEVE:</p> <p>11 Q. Okay. Now, are there any other</p> <p>12 employees employed by Rose Acre that track or</p> <p>13 note on any report retail sales price of shell</p> <p>14 eggs?</p> <p>15 MR. MONICA: Object to the term</p> <p>16 track. Vague and ambiguous.</p> <p>17 THE WITNESS: I don't recall any</p> <p>18 reports today that we would have that we were</p> <p>19 tracking the retail prices.</p> <p>20 BY MR. STUEVE:</p> <p>21 Q. Whether -- any reports that have</p> <p>22 any reference to retail prices?</p>	<p style="text-align: right;">225</p> <p>1 Q. Okay. Now, you testified that</p> <p>2 with respect to Save-A-Lot that the broker has</p> <p>3 been Marketing Concepts and Alliance; is that</p> <p>4 correct?</p> <p>5 <b>A. Correct.</b></p> <p>6 Q. And it's currently Marketing</p> <p>7 Concepts; is that correct?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. The broker would also come to you</p> <p>10 to ask for discounts for promotions for</p> <p>11 Save-A-Lot; is that right?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And how frequently would you grant</p> <p>14 discounts for promotions for Save-A-Lot?</p> <p>15 <b>A. Approximately twice a year.</b></p> <p>16 Q. How frequently would you do that</p> <p>17 for Topco?</p> <p>18 MR. MONICA: Objection. Asked and</p> <p>19 answered. You can answer.</p> <p>20 THE WITNESS: For -- I don't know</p> <p>21 exactly how many for Topco. It's been more</p> <p>22 often than two.</p>



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<p style="text-align: right;">226</p> <p>1 BY MR. STUEVE:</p> <p>2 Q. More than four times a year?</p> <p>3 <b>A. Are we -- for all Topco members?</b></p> <p>4 Q. For any Topco members?</p> <p>5 <b>A. Well, individually?</b></p> <p>6 Q. Yeah.</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Okay. It would be several times a</p> <p>9 year?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Okay. Now, back to Save-A-Lot.</p> <p>12 Would the broker assist the franchisees of</p> <p>13 Save-A-Lot with respect to the promotions being</p> <p>14 run on Rose Acre eggs?</p> <p>15 MR. MONICA: Objection as to the</p> <p>16 term franchisee. Calls for a legal conclusion.</p> <p>17 You can answer.</p> <p>18 THE WITNESS: Not to my knowledge.</p> <p>19 BY MR. STUEVE:</p> <p>20 Q. Okay. Do you know whether or not</p> <p>21 Save-A-Lot would assist the franchisees with</p> <p>22 respect to the promotion and advertising of the</p>	<p style="text-align: right;">228</p> <p>1 told you that from Save-A-Lot?</p> <p>2 <b>A. No one from Save-A-Lot.</b></p> <p>3 Q. The broker?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Okay. Would you on occasion be</p> <p>6 provided copies of the advertisements?</p> <p>7 <b>A. I did once.</b></p> <p>8 Q. Okay. And with respect to Topco,</p> <p>9 would you also be advised as to what the</p> <p>10 discount price was going to be in the</p> <p>11 advertisement.</p> <p>12 <b>A. No.</b></p> <p>13 Q. Okay. And that's never happened?</p> <p>14 <b>A. No. Not that I can recall.</b></p> <p>15 Q. Are you ever provided a copy of</p> <p>16 the advertisements for the Topco promotions?</p> <p>17 <b>A. Not that I recall.</b></p> <p>18 Q. Have you ever had anyone at Rose</p> <p>19 Acre collect those?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Okay. But you do recall that</p> <p>22 happening with respect to the broker for</p>
<p style="text-align: right;">227</p> <p>1 egg discounts?</p> <p>2 MR. MONICA: Same objection.</p> <p>3 Please answer.</p> <p>4 THE WITNESS: It's -- that they</p> <p>5 would -- I don't get involved in that.</p> <p>6 BY MR. STUEVE:</p> <p>7 Q. Would anyone at Rose Acre be</p> <p>8 involved in that?</p> <p>9 <b>A. No.</b></p> <p>10 Q. Okay. Would you be aware of,</p> <p>11 though, the advertising that was being run?</p> <p>12 MR. MONICA: Objection. Vague.</p> <p>13 THE WITNESS: The advertising as</p> <p>14 to a price?</p> <p>15 BY MR. STUEVE:</p> <p>16 Q. Yeah.</p> <p>17 <b>A. I have been -- not all the time.</b></p> <p>18 Q. But you have been privy to that</p> <p>19 information on occasion; is that correct?</p> <p>20 <b>A. I have been told before what price</b></p> <p>21 <b>they were running in the newspaper ad.</b></p> <p>22 Q. All right. And who would have</p>	<p style="text-align: right;">229</p> <p>1 Save-A-Lot?</p> <p>2 MR. MONICA: Objection.</p> <p>3 Mischaracterizes his prior testimony.</p> <p>4 THE WITNESS: I have been provided</p> <p>5 recently with a newspaper ad that Save-A-Lot ran</p> <p>6 an ad on promotion of eggs.</p> <p>7 BY MR. STUEVE:</p> <p>8 Q. And who provided that to you?</p> <p>9 <b>A. The broker.</b></p> <p>10 Q. Okay. But I thought your earlier</p> <p>11 testimony was you were made aware of that</p> <p>12 advertising price prior to the promotion; is</p> <p>13 that correct?</p> <p>14 MR. MONICA: Objection.</p> <p>15 Mischaracterizes his prior testimony. You can</p> <p>16 answer it.</p> <p>17 THE WITNESS: Yes. I was made</p> <p>18 aware, but I was provided after the ad.</p> <p>19 BY MR. STUEVE:</p> <p>20 Q. Okay. And what broker made you</p> <p>21 aware before the promotion what the ad price was</p> <p>22 going to be?</p>

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<p style="text-align: right;">230</p> <p>1 MR. MONICA: Objection. Vague.</p> <p>2 THE WITNESS: Market Peter Kroner.</p> <p>3 BY MR. STUEVE:</p> <p>4 Q. Peter Kroner. And he's with</p> <p>5 Marketing Concepts; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Now, you also mentioned one</p> <p>8 of your principal customers that you had</p> <p>9 responsibility for was CCF Brands?</p> <p>10 A. Correct.</p> <p>11 Q. And that's the distributor for</p> <p>12 Wal-Mart; is that correct?</p> <p>13 A. Yes. They work with Wal-Mart.</p> <p>14 Q. Okay. They're not an egg</p> <p>15 producer; right?</p> <p>16 MR. MONICA: Objection.</p> <p>17 THE WITNESS: Well, they -- no.</p> <p>18 They have production.</p> <p>19 BY MR. STUEVE:</p> <p>20 Q. It's fair to say, though, that the</p> <p>21 majority of the eggs that they sell to Wal-Mart</p> <p>22 they're not producing; correct?</p>	<p style="text-align: right;">232</p> <p>1 A. What percentage of commodity shell</p> <p>2 eggs do I sell to Topco?</p> <p>3 Q. Yeah.</p> <p>4 A. As compared to what?</p> <p>5 Q. Your other customers, your other</p> <p>6 egg shell customers?</p> <p>7 MR. MONICA: Objection.</p> <p>8 THE WITNESS: So you want to know</p> <p>9 what percentage of my sales are of commodity</p> <p>10 eggs to Topco compared -- how they rank with my</p> <p>11 other customers?</p> <p>12 BY MR. STUEVE:</p> <p>13 Q. Uh-huh.</p> <p>14 A. All shell egg customers?</p> <p>15 Q. Uh-huh.</p> <p>16 A. Less than 10 percent.</p> <p>17 Q. Where would AWG fall?</p> <p>18 MR. MONICA: Objection. Vague.</p> <p>19 BY MR. STUEVE:</p> <p>20 Q. Below that or above it?</p> <p>21 MR. MONICA: Same objection.</p> <p>22 THE WITNESS: Below that.</p>
<p style="text-align: right;">231</p> <p>1 MR. MONICA: Objection. Calls for</p> <p>2 speculation.</p> <p>3 THE WITNESS: I don't know</p> <p>4 exactly, you know, what are the relationships</p> <p>5 with all the producers, but they -- to my</p> <p>6 knowledge, the only birds I was aware they owned</p> <p>7 they own birds in Green Forest, Arkansas.</p> <p>8 BY MR. STUEVE:</p> <p>9 Q. And approximately how many birds</p> <p>10 do they own that you're aware of?</p> <p>11 A. At that location less than</p> <p>12 a million.</p> <p>13</p> <p>14 Q. Now, what type of contracts did</p> <p>15 you enter into with CCF Brands, both commodity</p> <p>16 and specialty?</p> <p>17 A. I have sold CCF Brands commodity</p> <p>18 and specialty eggs. Yes.</p> <p>19 Q. Okay. And let me back up for a</p> <p>20 minute. Topco, currently what percentage of</p> <p>21 your shell eggs, your commodity shell eggs do</p> <p>22 you sell to Topco?</p>	<p style="text-align: right;">233</p> <p>1 BY MR. STUEVE:</p> <p>2 Q. Okay. Now, have you ever -- has</p> <p>3 Rose Acre ever asserted an antitrust claim</p> <p>4 against Topco or any of its members?</p> <p>5 A. Antitrust. I'm not aware exactly</p> <p>6 about the antitrust claim.</p> <p>7 Q. Are you personally aware of an</p> <p>8 antitrust claim or a claim that Topco is engaged</p> <p>9 in anticompetitive conduct being asserted by</p> <p>10 Rose Acre against Topco?</p> <p>11 A. I'm aware of the fact that there's</p> <p>12 been a lawsuit filed against a Topco member, but</p> <p>13 I don't know the details of the suit.</p> <p>14 Q. I'm talking about on behalf of</p> <p>15 Rose Acre. Is it your understanding -- has Rose</p> <p>16 Acre asserted a claim against Topco for engaging</p> <p>17 in anticompetitive conduct?</p> <p>18 A. I don't know the basis. I know a</p> <p>19 lawsuit has been filed against a member of</p> <p>20 Topco, but I don't know the details.</p> <p>21 Q. What lawsuit are you referring to?</p> <p>22 A. There's been a lawsuit filed, to</p>

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<p style="text-align: right;">234</p> <p>1 <b>my knowledge, against Hy-Vee, but I don't know</b>  2 <b>the details.</b>  3 Q. Do you know where that's pending?  4 <b>A. No. I don't.</b>  5 Q. And is that -- do you believe  6 that's asserted by Rose Acre?  7 <b>A. Yes.</b>  8 Q. Okay. And have you had any  9 involvement in that litigation?  10 <b>A. No.</b>  11 Q. Have you been asked to provide any  12 information in that litigation?  13 <b>A. No.</b>  14 Q. Okay. Has -- putting aside  15 Hy-Vee, are you aware of any claim being  16 asserted by Rose Acre against Topco for buying  17 eggs on behalf of its members from Rose Acre?  18 MR. MONICA: Objection. Vague.  19 THE WITNESS: I don't know the  20 exact details -- honestly, I don't know the  21 details.  22 BY MR. STUEVE:</p>	<p style="text-align: right;">236</p> <p>1 Q. Okay. And are there any other  2 customers of Rose Acre that are like Topco where  3 it's a group buying customer -- customer buying  4 on behalf of its members?  5 <b>A. Well, Topco -- I don't know to say</b>  6 <b>Topco group buys. When Topco comes to us with a</b>  7 <b>bid for a member, it's only pertaining to that</b>  8 <b>member only. So, no, I don't have anyone else</b>  9 <b>that I deal with that's like Topco.</b>  10 Q. Do you -- my question is, do you  11 have anyone, and we're going to get into Topco  12 more here, but do you have anyone that -- any  13 customer that buys on behalf of a group or  14 members, other than Topco?  15 MR. MONICA: Objection.  16 THE WITNESS: Topco don't come to  17 us with multiple members when they bid. They  18 come to us with a specific chain and they say  19 here's the bid for this customer. They've never  20 have ever discussed multiple customers during  21 any single bid.  22 BY MR. STUEVE:</p>
<p style="text-align: right;">235</p> <p>1 Q. You are aware of a lawsuit against  2 Hy-Vee; is that correct?  3 <b>A. Yes.</b>  4 Q. Do you know whether or not Topco  5 is named as a Defendant in that case?  6 <b>A. I don't recall. No.</b>  7 Q. Okay. Other than that lawsuit,  8 are you aware of any lawsuit that you're aware  9 that's been asserted by Rose Acre against Topco,  10 directly, for its group purchasing on behalf of  11 its members?  12 <b>A. I think I just answered that. No.</b>  13 <b>I'm not aware of it.</b>  14 Q. Okay. Are you aware of any claim  15 brought by Rose Acre against Save-A-Lot and --  16 for its group purchasing on behalf of its  17 franchisees?  18 MR. MONICA: Objection. Calls for  19 legal conclusion. Please, go ahead and answer.  20 THE WITNESS: I'm not aware of any  21 lawsuit brought by Rose Acre against Save-A-Lot.  22 BY MR. STUEVE:</p>	<p style="text-align: right;">237</p> <p>1 Q. Let me ask you this.  2 Are there any customers -- you're  3 not understanding my question.  4 What I'm asking you is, are there  5 any other customers that you have that represent  6 a group or individual buyers?  7 <b>A. My understanding that that would</b>  8 <b>be the structure of AWG.</b>  9 Q. Okay.  10 <b>A. Which is different than Topco, the</b>  11 <b>way I would view it, but I don't know the</b>  12 <b>legalities.</b>  13 Q. We'll see what Topco says about  14 how they conduct their business, that's publicly  15 available.  16 MR. MONICA: Objection.  17 Argumentative.  18 BY MR. STUEVE:  19 Q. What I'm asking you is, you've  20 already identified that Save-A-Lot has  21 75 percent of its franchisees and they purchased  22 from Rose Acre; correct?</p>

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<p style="text-align: right;">238</p> <p>1 MR. MONICA: Objection.</p> <p>2 Mischaracterizes his prior testimony.</p> <p>3 THE WITNESS: Save-A-Lot, as I</p> <p>4 stated, was a subsidiary of Super Value, and we</p> <p>5 sell eggs to Save-A-Lot. They happen to have</p> <p>6 some franchisees, but I don't know how -- my</p> <p>7 understanding that would be a different</p> <p>8 structure than what I -- in my opinion, what I</p> <p>9 sell to Topco or what I sell to AWG, they're</p> <p>10 different.</p> <p>11 BY MR. STUEVE:</p> <p>12 Q. I'm not asking you to make any</p> <p>13 legal conclusions about their similarity. I'm</p> <p>14 asking you, you testified about the fact that</p> <p>15 you are aware that Save-A-Lot corporate</p> <p>16 headquarters purchases eggs from Rose Acre and</p> <p>17 they resell those eggs to their franchisees;</p> <p>18 correct?</p> <p>19 MR. MONICA: Objection to the term</p> <p>20 franchisee, but go ahead and answer.</p> <p>21 THE WITNESS: The relationship</p> <p>22 between Save-A-Lot and their franchise -- I have</p>	<p style="text-align: right;">240</p> <p>1 around and sell to independents.</p> <p>2 Q. So this is not their Save-A-Lot?</p> <p>3 A. Correct.</p> <p>4 Q. This is the same corporate</p> <p>5 company, Super Value, and they do have a</p> <p>6 wholesale grocer group; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. All right. And where is that</p> <p>9 located, sir?</p> <p>10 A. Well, they have multiple</p> <p>11 warehouses. They're in Anniston, Alabama,</p> <p>12 they're in Champagne, Illinois, Minneapolis,</p> <p>13 Minnesota, they have a division in North Dakota,</p> <p>14 St. Louis, Missouri. I know there's others,</p> <p>15 too. There's a few more than that.</p> <p>16 Q. Is there -- does Super Value have</p> <p>17 a name for its wholesale?</p> <p>18 A. Super Value wholesale.</p> <p>19 Q. Super Value wholesale. And are</p> <p>20 the members independently owned stores?</p> <p>21 A. I don't know that they have</p> <p>22 members. They have customers, as far as I know.</p>
<p style="text-align: right;">239</p> <p>1 no knowledge of other than I've been told that</p> <p>2 they have franchise stores and corporate stores.</p> <p>3 BY MR. STUEVE:</p> <p>4 Q. And with respect to the franchise</p> <p>5 stores, you understand that those franchise</p> <p>6 stores buy eggs from Save-A-Lot; correct?</p> <p>7 A. They receive eggs from Save-A-Lot</p> <p>8 warehouses.</p> <p>9 Q. All right. Now, with respect</p> <p>10 to -- are there any other customers that you're</p> <p>11 aware of in which -- and I'm not asking you</p> <p>12 whether they're similar or not to AWG, so just</p> <p>13 put that out of your mind, because we're going</p> <p>14 to get into your customers. I'm trying to</p> <p>15 shortcut this.</p> <p>16 Are there any other customers in</p> <p>17 which you're negotiating with a headquarter -- a</p> <p>18 headquarters and then they are reselling those</p> <p>19 eggs to members or affiliated grocery stores?</p> <p>20 Any other customers?</p> <p>21 A. Super Value is a wholesaler that</p> <p>22 we sell direct and indirect to that does turn</p>	<p style="text-align: right;">241</p> <p>1 Q. Are the customers independently</p> <p>2 owned?</p> <p>3 A. Yes.</p> <p>4 Q. They're not owned by Super Value?</p> <p>5 A. They own some. Super Value is</p> <p>6 structured in two ways. They have a wholesale</p> <p>7 division that they sell independents and then</p> <p>8 they have some of their own corporate own</p> <p>9 stores, as well.</p> <p>10 Q. But with respect to -- there are</p> <p>11 folks who purchase from the wholesaler that are</p> <p>12 not owned by Super Value; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. What percentage of their wholesale</p> <p>15 business comes from stores that are not owned by</p> <p>16 Super Value?</p> <p>17 A. I don't know that.</p> <p>18 Q. What distribution centers do you</p> <p>19 supply for Super Value's wholesale business?</p> <p>20 A. Anniston, Alabama, Champagne,</p> <p>21 Illinois. Them are the two today.</p> <p>22 Q. How long has the wholesale</p>

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<p style="text-align: right;">242</p> <p>1 business been a customer of Rose Acre?</p> <p>2 MR. MONICA: Objection. You may</p> <p>3 answer.</p> <p>4 THE WITNESS: For Super Value?</p> <p>5 BY MR. STUEVE:</p> <p>6 Q. Super Value's wholesale business,</p> <p>7 how long has it been a customer of Rose Acre?</p> <p>8 <b>A. Well, indirectly more than</b></p> <p>9 <b>15 years.</b></p> <p>10 Q. When you say indirectly, what do</p> <p>11 you mean?</p> <p>12 <b>A. We sell eggs to Dutch Farms in</b></p> <p>13 <b>Chicago, who in turn sells to Super Value in</b></p> <p>14 <b>Champagne, Illinois, and we sell to Lakeside</b></p> <p>15 <b>Foods in Alabama that in turn sells to the</b></p> <p>16 <b>Anniston warehouse.</b></p> <p>17 Q. And then do you also have direct</p> <p>18 sales now?</p> <p>19 <b>A. We have sold some eggs direct to</b></p> <p>20 <b>the Champagne warehouse.</b></p> <p>21 Q. How long have you done that?</p> <p>22 <b>A. For about eight years.</b></p>	<p style="text-align: right;">244</p> <p>1 between -- from what you're selling to Dutch</p> <p>2 Farms and then what they're selling to Super</p> <p>3 Value?</p> <p>4 <b>A. I don't have any direct knowledge</b></p> <p>5 <b>of how they sell.</b></p> <p>6 Q. Is that your assumption?</p> <p>7 MR. MONICA: Objection. Calls for</p> <p>8 speculation.</p> <p>9 THE WITNESS: I said I don't get</p> <p>10 involved in their business and what they sell.</p> <p>11 BY MR. STUEVE:</p> <p>12 Q. Sir, I just want to make sure I</p> <p>13 understand. You have no understanding whether</p> <p>14 or not Dutch Farms marks up the eggs you sell to</p> <p>15 them before they sell it to Super Value's</p> <p>16 wholesale distribution center?</p> <p>17 <b>A. I have never been told they markup</b></p> <p>18 <b>the eggs.</b></p> <p>19 Q. Well, why would they be engaged in</p> <p>20 a sale to Super Value wholesale distribution</p> <p>21 center if they didn't markup the price that they</p> <p>22 paid you for the eggs?</p>
<p style="text-align: right;">243</p> <p>1 Q. And how much business on a weekly</p> <p>2 basis?</p> <p>3 <b>A. Of -- that we sell direct to the</b></p> <p>4 <b>Champagne warehouse?</b></p> <p>5 Q. Uh-huh.</p> <p>6 <b>A. A few palettes a week.</b></p> <p>7 Q. And where are those from?</p> <p>8 <b>A. Germantown, Illinois.</b></p> <p>9 Q. Now, when you say indirect, with</p> <p>10 respect to the Super Value wholesale operations,</p> <p>11 do you invoice Super Value or do you invoice</p> <p>12 Dutch Farms?</p> <p>13 <b>A. Invoice Dutch Farms.</b></p> <p>14 Q. Okay. But you know that those</p> <p>15 eggs are then going to be shipped to the Super</p> <p>16 Value warehouse?</p> <p>17 <b>A. In Champagne; correct.</b></p> <p>18 Q. All right. And why don't you just</p> <p>19 deal directly with Super Value?</p> <p>20 <b>A. Because Dutch Farms came to me</b></p> <p>21 <b>with the account.</b></p> <p>22 Q. Okay. Do they have a markup</p>	<p style="text-align: right;">245</p> <p>1 MR. MONICA: Objection. Calls for</p> <p>2 speculation. You can answer.</p> <p>3 THE WITNESS: I said I have no</p> <p>4 knowledge of what they do with the eggs they</p> <p>5 purchase from us or how they sell any of their</p> <p>6 customers.</p> <p>7 BY MR. STUEVE:</p> <p>8 Q. I'm not asking you personally, but</p> <p>9 is it fair your assumption is in order for that</p> <p>10 transaction to make sense, and what I'm</p> <p>11 referring to is for it to make sense for Dutch</p> <p>12 Farms to buy the eggs from Rose Acre and then</p> <p>13 sell them and distribute them and transport them</p> <p>14 to Super Value's warehouse there would have to</p> <p>15 be a markup?</p> <p>16 <b>A. I have no knowledge what they sell</b></p> <p>17 <b>at.</b></p> <p>18 Q. I'm going to read back my question</p> <p>19 one more time, give you one more chance to</p> <p>20 answer and then we'll ask the judge to get</p> <p>21 involved.</p> <p>22 <b>A. Okay.</b></p>

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<p style="text-align: right;">246</p> <p>1           <b>(The record was read as</b>  2       <b>requested.)</b>  3           MR. MONICA: Let me put my  4       objection. I object. It's compound. You're  5       asking this witness to speculate about things he  6       has no firsthand knowledge about. You can  7       answer the question if you know.  8           THE WITNESS: Okay. I'll state  9       again I have no knowledge of what Dutch Farms  10      sells the eggs -- the eggs I sell them what they  11      sell them for.  12      BY MR. STUEVE:  13      Q.   They never told you that there's a  14      markup?  15      A.   <b>No.</b>  16      Q.   Okay. And do they pick those eggs  17      up from your production facilities, Dutch Farms?  18      A.   <b>For Champagne?</b>  19      Q.   Yes.  20      A.   <b>I believe today that Champagne is</b>  21      <b>picking their own eggs up.</b>  22      Q.   So Super Value's warehouse is</p>	<p style="text-align: right;">248</p> <p>1           Q.   Who's packaging them?  2           A.   <b>We package them.</b>  3           Q.   Is it under the Super Value brand?  4           A.   <b>No.</b>  5           Q.   What brand is it under?  6           A.   <b>Dutch Farms.</b>  7           Q.   Okay. So it's the Dutch Farms  8           brand that's being sold at the -- at the  9           customers of Super Value's warehouse?  10          A.   <b>Yes.</b>  11          Q.   Okay. So -- and do you know which  12          independent retail grocers are purchasing the  13          Dutch Farms eggs at the Champagne, Illinois  14          warehouse?  15          A.   <b>I'm aware of two of them.</b>  16          Q.   Okay.  17          A.   <b>That I can think of. Dierberg's</b>  18          <b>and Neiman's.</b>  19          Q.   Okay. Do you know what production  20          facility they're picking that -- Super Value's  21          picking the eggs up at?  22          A.   <b>We pack the majority of the eggs</b></p>
<p style="text-align: right;">247</p> <p>1       actually picking the eggs up from your Rose  2       Acre's production facility?  3       A.   <b>Yes.</b>  4       Q.   So Dutch Farms is really just  5       serving as a broker there; right?  6       MR. MONICA: Objection.  7       THE WITNESS: No.  8       BY MR. STUEVE:  9       Q.   What else are they doing other  10      than consummating the transaction between Super  11      Value's wholesaler and Rose Acre?  12      A.   <b>Super Value is Dutch Farms</b>  13      <b>customer. I sell to Dutch Farms.</b>  14      Q.   I understand that, but other than  15      Dutch Farms being the middleman, are they doing  16      anything else?  17      MR. MONICA: Objection.  18      THE WITNESS: I don't know.  19      BY MR. STUEVE:  20      Q.   They're not packaging the eggs;  21      right?  22      A.   <b>No. They're not packaging them.</b></p>	<p style="text-align: right;">249</p> <p>1       <b>at our Newton County in Brook, Indiana.</b>  2       Q.   How far is that from Champagne,  3       Illinois?  4       A.   <b>I don't know. Maybe approximately</b>  5       <b>three hours, roughly.</b>  6       Q.   How many miles?  7       A.   <b>Three hours would be somewhere</b>  8       <b>around 150 to 180 miles approximately.</b>  9       Q.   Does your price that you quote  10      Dutch Farms include any transportation costs  11      from your production facility to Champagne,  12      Illinois?  13      A.   <b>If we deliver.</b>  14      Q.   I thought your testimony was that  15      they pick up?  16      A.   <b>I said I thought that they were</b>  17      <b>picking up right now.</b>  18      Q.   Okay.  19      A.   <b>We have delivered them in the</b>  20      <b>past. We may deliver today. I would have to</b>  21      <b>check.</b>  22      Q.   But if they pick up does your</p>



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<p style="text-align: right;">250</p> <p>1 price to Dutch Farms include any transportation</p> <p>2 costs?</p> <p>3 <b>A. Not if they pick up.</b></p> <p>4 Q. Okay. When you say they, the --</p> <p>5 are they Super Value wholesale trucks?</p> <p>6 <b>A. Super Value or Dutch Farms.</b></p> <p>7 Q. Okay. Do you know if Dutch Farms</p> <p>8 has any ownership interest in Super Value?</p> <p>9 <b>A. Not that I'm aware of.</b></p> <p>10 Q. Okay. Are they a member of the</p> <p>11 wholesaler?</p> <p>12 <b>A. Not that I'm aware of.</b></p> <p>13 Q. Okay. Now, with respect to the</p> <p>14 price for the direct shipments that you make to</p> <p>15 Champagne, the Super Value warehouse?</p> <p>16 <b>A. Uh-huh.</b></p> <p>17 MR. MONICA: Objection.</p> <p>18 BY MR. STUEVE:</p> <p>19 Q. Who do you invoice for those</p> <p>20 sales?</p> <p>21 <b>A. Can you repeat the question.</b></p> <p>22 <b>(The record was read as</b></p>	<p style="text-align: right;">252</p> <p>1 Q. Eggland's Best. And has that</p> <p>2 always been direct sales to them, Eggland's</p> <p>3 Best?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Now, are you familiar with a</p> <p>6 customer called Centrella?</p> <p>7 <b>A. Yes. Well, I'm familiar with the</b></p> <p>8 <b>company Centrella.</b></p> <p>9 Q. Have they been a customer of Rose</p> <p>10 Acre?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Never been?</p> <p>13 <b>A. No.</b></p> <p>14 Q. Okay. Have you solicited their</p> <p>15 business before?</p> <p>16 <b>A. Centrella, no.</b></p> <p>17 Q. Any related entities of Centrella?</p> <p>18 <b>A. Centrella purchased a company I</b></p> <p>19 <b>used to sell eggs to.</b></p> <p>20 Q. Who was that?</p> <p>21 <b>A. Certified Grocers.</b></p> <p>22 Q. When was Certified Grocers a</p>
<p style="text-align: right;">251</p> <p>1 <b>requested.)</b></p> <p>2 MR. MONICA: Same objection.</p> <p>3 BY MR. STUEVE:</p> <p>4 Q. Let me walk you -- let me -- the</p> <p>5 record is not very clear. Let me ask it again</p> <p>6 so the record is clear.</p> <p>7 You testified earlier that there</p> <p>8 were direct sales made between Rose Acre and</p> <p>9 Super Value's wholesale distribution center in</p> <p>10 Champagne, Illinois; is that correct?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Who do you invoice for those</p> <p>13 direct sales?</p> <p>14 <b>A. Super Value.</b></p> <p>15 Q. Okay. And are those both</p> <p>16 commodity and specialty eggs?</p> <p>17 <b>A. No.</b></p> <p>18 Q. What are they?</p> <p>19 <b>A. Specialty eggs.</b></p> <p>20 Q. Specialty eggs. And what type of</p> <p>21 specialty eggs?</p> <p>22 <b>A. Eggland's Best.</b></p>	<p style="text-align: right;">253</p> <p>1 customer?</p> <p>2 <b>A. From prior 2000 up until mid</b></p> <p>3 <b>2000s. They were a customer through the '90s</b></p> <p>4 <b>and up until mid 2000. I don't remember the</b></p> <p>5 <b>exact date.</b></p> <p>6 Q. Okay. And whose responsibility</p> <p>7 was Certified Grocers account? Whose</p> <p>8 responsibility?</p> <p>9 <b>A. Prior to myself it would have been</b></p> <p>10 <b>Donna Disque.</b></p> <p>11 Q. And then from --</p> <p>12 <b>A. From --</b></p> <p>13 Q. '92 to 2000?</p> <p>14 <b>A. Myself.</b></p> <p>15 Q. Okay. And when you say Centrella</p> <p>16 purchased them, when did Centrella purchase</p> <p>17 them?</p> <p>18 <b>A. Somewhere in the mid 2000s about</b></p> <p>19 <b>six months to a year after I lost the business.</b></p> <p>20 Q. Okay. Now, did you understand</p> <p>21 that Certified Grocers was a wholesale grocer?</p> <p>22 <b>A. Yes.</b></p>

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<p style="text-align: right;">254</p> <p>1 Q. And did it have members?</p> <p>2 <b>A. They had independents. I knew one</b></p> <p>3 <b>of their independents they worked with was</b></p> <p>4 <b>Butera Foods.</b></p> <p>5 Q. Okay. And where were their</p> <p>6 distribution centers?</p> <p>7 <b>A. It was in Chicago, Illinois they</b></p> <p>8 <b>had one, that I know of.</b></p> <p>9 Q. And do you know what volume of</p> <p>10 eggs you sold them?</p> <p>11 <b>A. Approximately average five to six</b></p> <p>12 <b>loads a week, roughly. Maybe more sometimes.</b></p> <p>13 Q. At that time was that one of your</p> <p>14 larger customers?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And did you have a broker that</p> <p>17 assisted you with that account?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Okay. And do you know whether or</p> <p>20 not they had ad groups within Certified Grocers?</p> <p>21 <b>A. I don't -- I don't know. I don't</b></p> <p>22 <b>know what groups they had. I mean --</b></p>	<p style="text-align: right;">256</p> <p>1 <b>I can't recall her last name.</b></p> <p>2 Q. What was the reason why you lost</p> <p>3 that business?</p> <p>4 <b>A. Somebody offered them lower prices</b></p> <p>5 <b>than I was willing to do.</b></p> <p>6 Q. Who was that?</p> <p>7 <b>A. I can't remember exactly. I'm</b></p> <p>8 <b>thinking of a couple people came to mind, but I</b></p> <p>9 <b>can't remember.</b></p> <p>10 Q. Who are the people that are coming</p> <p>11 to mind?</p> <p>12 <b>A. Sparboe or Moark.</b></p> <p>13 Q. Any other wholesale grocers that</p> <p>14 were customers of Rose Acre from '99 to the</p> <p>15 present?</p> <p>16 <b>A. Wholesale? Well, yeah, Flemming</b></p> <p>17 <b>Foods.</b></p> <p>18 Q. Okay.</p> <p>19 <b>A. I think it was after 2000. I</b></p> <p>20 <b>can't remember when they filed bankruptcy, but.</b></p> <p>21 Q. They would have been a customer of</p> <p>22 Rose Acre's up until the time they filed for</p>
<p style="text-align: right;">255</p> <p>1 Q. Are you familiar with the concept</p> <p>2 ad groups?</p> <p>3 <b>A. Advertising departments maybe. I</b></p> <p>4 <b>don't know about group. I would call something</b></p> <p>5 <b>an advertising department.</b></p> <p>6 Q. Did you understand there were</p> <p>7 advertising groups that Certified had that</p> <p>8 assisted the independent retail grocers in</p> <p>9 promoting their products?</p> <p>10 MR. MONICA: Objection to the</p> <p>11 question.</p> <p>12 THE WITNESS: No.</p> <p>13 BY MR. STUEVE:</p> <p>14 Q. You had no --</p> <p>15 <b>A. No direct knowledge.</b></p> <p>16 Q. No direct knowledge of that?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Okay. Who was your contact at</p> <p>19 Certified Grocers?</p> <p>20 <b>A. Kathy.</b></p> <p>21 Q. Kathy?</p> <p>22 <b>A. I would have to look in the files.</b></p>	<p style="text-align: right;">257</p> <p>1 bankruptcy?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Any others?</p> <p>4 <b>A. Wholesale. I'm trying to remember</b></p> <p>5 <b>if we ever sold Nash Finch. They would be a</b></p> <p>6 <b>wholesaler, but I would have to -- we bid on</b></p> <p>7 <b>Nash Finch several times. I don't recall for</b></p> <p>8 <b>sure if we ever sold them.</b></p> <p>9 Q. Any others?</p> <p>10 <b>A. None I can think of off the top of</b></p> <p>11 <b>my head.</b></p> <p>12 Q. Any other entity that was a group</p> <p>13 buyer?</p> <p>14 <b>A. A group buyer meaning?</b></p> <p>15 Q. A buyer on behalf of a group of</p> <p>16 customers?</p> <p>17 <b>A. Indirect, I mentioned Piggly</b></p> <p>18 <b>Wiggly in Alabama.</b></p> <p>19 Q. Any others?</p> <p>20 <b>A. I can't of any more off the top of</b></p> <p>21 <b>my head other than the ones we already</b></p> <p>22 <b>discussed.</b></p>

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<p style="text-align: right;">258</p> <p>1 Q. When you say Piggly Wiggly, what</p> <p>2 do you understand their structure is?</p> <p>3 <b>A. I don't exactly know. I know</b></p> <p>4 <b>there's Piggly Wiggly stores throughout the</b></p> <p>5 <b>Southeast and the warehouse. We supply -- we</b></p> <p>6 <b>deliver eggs at the warehouse for Dutch Farms,</b></p> <p>7 <b>our distributor.</b></p> <p>8 Q. Are there some Piggly Wiggly</p> <p>9 stores that are independently owned separate and</p> <p>10 apart from Piggly Wiggly?</p> <p>11 <b>A. I honestly don't know owners of</b></p> <p>12 <b>stores. It's just not my business.</b></p> <p>13 Q. What about Aldie? Does Aldie own</p> <p>14 all its grocery stores?</p> <p>15 <b>A. To my knowledge, they own</b></p> <p>16 <b>100 percent of their stores.</b></p> <p>17 Q. Are there any of your customers in</p> <p>18 which some of the stores are not 100 percent</p> <p>19 owned by the customer, they're using a brand</p> <p>20 name, either a franchisee or some other loose</p> <p>21 affiliation with the customer, but the customer</p> <p>22 does not corporately own all of the grocery</p>	<p style="text-align: right;">260</p> <p>1 Q. I'm talking about shell eggs now,</p> <p>2 too?</p> <p>3 <b>A. Shell eggs. Sorry.</b></p> <p>4 <b>The -- McCauley.</b></p> <p>5 Q. How do you spell that?</p> <p>6 <b>A. M-C-C-A-U-L-E-Y.</b></p> <p>7 Q. Okay. And where is this</p> <p>8 distributor located?</p> <p>9 <b>A. He's in Mount Vernon, Kentucky.</b></p> <p>10 Q. And do you know who he distributes</p> <p>11 to?</p> <p>12 <b>A. Independent grocery stores.</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. Throughout -- I think -- they live</b></p> <p>15 <b>in Tennessee. He's been to Nashville before.</b></p> <p>16 Q. And do they purchase grocery</p> <p>17 products other than eggs and distribute them to</p> <p>18 these independent grocers?</p> <p>19 <b>A. I only have knowledge of the eggs</b></p> <p>20 <b>that I sell him.</b></p> <p>21 Q. All right. Who else?</p> <p>22 <b>A. Dalton Poultry.</b></p>
<p style="text-align: right;">259</p> <p>1 stores?</p> <p>2 <b>A. I've already mentioned Save-A-Lot.</b></p> <p>3 Q. Right.</p> <p>4 <b>A. Are you asking me if there's any</b></p> <p>5 <b>besides Save-A-Lot?</b></p> <p>6 Q. Yes. Uh-huh.</p> <p>7 <b>A. To my knowledge, like an AWG and</b></p> <p>8 <b>then -- other than the ones I already talked</b></p> <p>9 <b>about like Super Value, any of the wholesalers</b></p> <p>10 <b>they sell to independents, but beyond those that</b></p> <p>11 <b>we've already discussed?</b></p> <p>12 Q. Right.</p> <p>13 <b>A. None that comes to mind.</b></p> <p>14 Q. Okay.</p> <p>15 <b>A. Or I guess -- I've got quite a few</b></p> <p>16 <b>distributors, but they don't own supermarkets</b></p> <p>17 <b>like Dutch Farms, and then they sell. So I've</b></p> <p>18 <b>got several distributors like that and I've had</b></p> <p>19 <b>them over the years.</b></p> <p>20 Q. Can you tell me the names of those</p> <p>21 distributors?</p> <p>22 <b>A. Sure.</b></p>	<p style="text-align: right;">261</p> <p>1 Q. Okay.</p> <p>2 <b>A. He's in Johnson City -- no. He's</b></p> <p>3 <b>in Tennessee -- he's in western Tennessee.</b></p> <p>4 <b>What's the name of the town? I can't think of</b></p> <p>5 <b>the town, but it's in western Tennessee outside</b></p> <p>6 <b>of Memphis, D-A-L-T-O-N, Poultry.</b></p> <p>7 <b>Now, I've been in his warehouse</b></p> <p>8 <b>and he sold other products.</b></p> <p>9 Q. Okay. Any others?</p> <p>10 <b>A. Oh, yeah. Prime Foods.</b></p> <p>11 Q. Are they currently a customer?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Okay. Where are they located?</p> <p>14 <b>A. Booneville, Indiana.</b></p> <p>15 Q. And do they buy other grocery</p> <p>16 products other than eggs?</p> <p>17 <b>A. Not that I'm aware of.</b></p> <p>18 Q. Okay. And do they resell to</p> <p>19 independent retail grocers?</p> <p>20 <b>A. They sell to independent</b></p> <p>21 <b>supermarkets; correct.</b></p> <p>22 Q. Okay. Any others?</p>

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<p style="text-align: right;">262</p> <p>1           <b>A. Dutt &amp; Wagner, D-U-T-T &amp;</b>  2           <b>W-A-G-N-E-R.</b>  3           Q. Any others?  4           <b>A. Yes. Jersey Lynn Farms, L-Y-N-N.</b>  5           Q. Do you know if they purchase other  6 grocery products?  7           <b>A. Yes.</b>  8           Q. Same thing with Dutt &amp; Wagner, do  9 they purchase other grocery products?  10           <b>A. Yes.</b>  11           Q. Any others?  12           <b>A. Egg Depot.</b>  13           Q. Where are they located?  14           <b>A. Bronx, New York.</b>  15           Q. Do you know if they purchase other  16 grocery products?  17           <b>A. Yes.</b>  18           Q. Any others?  19           <b>A. Hillcrest Food Service.</b>  20           Q. And do they resell to independent  21 retail grocers?  22           <b>A. Yes.</b></p>	<p style="text-align: right;">264</p> <p>1 grocery products other than eggs?  2           <b>A. Not that I was aware of.</b>  3           Q. Okay. Do they resell their eggs  4 to independent grocers?  5           <b>A. Yes.</b>  6           Q. Okay. Any others?  7           <b>A. Collins Brothers.</b>  8           Q. Located where?  9           <b>A. Atlanta, Georgia.</b>  10           Q. Do they purchase other grocery  11 products?  12           <b>A. I believe they do, but I'm not</b>  13 <b>totally familiar with their business.</b>  14           Q. Do they resell their eggs to  15 independent grocers?  16           <b>A. Yes.</b>  17           Q. Okay. Any others?  18           <b>A. There's more. I'm trying to</b>  19 <b>remember in my mind who I've given you.</b>  20 <b>Terry Volz.</b>  21           Q. How do you spell that?  22           <b>A. V-O-L-Z.</b></p>
<p style="text-align: right;">263</p> <p>1           Q. Where are they located?  2           <b>A. Cleveland, Ohio.</b>  3           Q. All right. Any others?  4           <b>A. During -- are we discussing still</b>  5 <b>the period from 2004?</b>  6           Q. Uh-huh.  7           <b>A. Linwood.</b>  8           Q. Located where?  9           <b>A. Detroit.</b>  10           Q. Do they purchase other grocery  11 products?  12           <b>A. Yes. I believe they did.</b>  13           Q. Do they resell them to independent  14 retail grocers?  15           <b>A. Yes.</b>  16           Q. Any others?  17           <b>A. Rexing.</b>  18           Q. How do you spell that?  19           <b>A. R-E-X-I-N-G.</b>  20           Q. Where are they located?  21           <b>A. Evansville, Indiana.</b>  22           Q. Okay. And do they purchase other</p>	<p style="text-align: right;">265</p> <p>1           Q. It's Terry?  2           <b>A. Terry.</b>  3           Q. And do they purchase other grocery  4 products?  5           <b>A. Not that I'm aware of.</b>  6           Q. Where are they located?  7           <b>A. Sunman, Indiana, S-U-N-M-A-N.</b>  8           Q. Any others?  9           <b>A. Happy Chicken.</b>  10           Q. Located where?  11           <b>A. Columbus, Ohio.</b>  12           Q. Do you know if they purchase other  13 grocery products?  14           <b>A. I believe they do dairy, as well.</b>  15           Q. And do they resell to independent  16 retail grocers?  17           <b>A. Yes.</b>  18           Q. Is that the same for Terry Volz,  19 does he resell to independent retail grocers?  20           <b>A. Yes.</b>  21           Q. Okay. Any others?  22           <b>A. Quality Foods in Chicago,</b></p>

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<p style="text-align: right;">266</p> <p>1 <b>Illinois.</b></p> <p>2 Q. Okay. Do they purchase other</p> <p>3 grocery products?</p> <p>4 <b>A. Actually, he bought -- I believe</b></p> <p>5 <b>he only bought loose eggs. So since he was</b></p> <p>6 <b>buying loose I think it went mainly to</b></p> <p>7 <b>restaurants.</b></p> <p>8 Q. Okay. Any others?</p> <p>9 <b>A. We're talking about --</b></p> <p>10 <b>distributors. Let's see. Oh. Poss, P-O-S-S.</b></p> <p>11 <b>Well, do you want restaurants? If someone just</b></p> <p>12 <b>sells restaurants do you want that, too?</b></p> <p>13 Q. I want to focus on independent</p> <p>14 retail grocers.</p> <p>15 <b>A. Poss, they sell to restaurants.</b></p> <p>16 Q. Okay. Any other distributors that</p> <p>17 resell to independent retail grocers?</p> <p>18 <b>A. I'm sure I've left some out. Off</b></p> <p>19 <b>the top of my head that's -- those are the ones</b></p> <p>20 <b>that come to mind right now.</b></p> <p>21 Q. Now, any other entity that you</p> <p>22 haven't identified that purchases eggs from Rose</p>	<p style="text-align: right;">268</p> <p>1 Q. What do they do when they purchase</p> <p>2 the eggs?</p> <p>3 <b>A. They purchased -- we sold them</b></p> <p>4 <b>eggs and they'll sell them to other egg</b></p> <p>5 <b>producers.</b></p> <p>6 Q. Okay. All right. Any other</p> <p>7 entity that purchases eggs from Rose Acre and</p> <p>8 then resells them to independent retail grocers</p> <p>9 or supermarkets? Any other retail outlet?</p> <p>10 <b>A. Dixie Egg.</b></p> <p>11 Q. Sorry. Can you spell that?</p> <p>12 <b>A. D-I-X-I-E.</b></p> <p>13 Q. Okay. Located where?</p> <p>14 <b>A. Blackshear -- one of his locations</b></p> <p>15 <b>is Blackshear, Georgia.</b></p> <p>16 Q. Okay. And what does Dixie do when</p> <p>17 they purchase the eggs?</p> <p>18 <b>A. We've sold him -- he's an egg</b></p> <p>19 <b>producer and we've sold him eggs to help</b></p> <p>20 <b>supplement his own production.</b></p> <p>21 Q. Okay. Any entity that's not an</p> <p>22 egg producer that you would be selling eggs and</p>
<p style="text-align: right;">267</p> <p>1 Acre and then resells them to independent retail</p> <p>2 grocers?</p> <p>3 <b>A. Independent retail grocers or just</b></p> <p>4 <b>supermarkets?</b></p> <p>5 Q. Supermarkets?</p> <p>6 <b>A. Okay. So it can be a chain,</b></p> <p>7 <b>whether it's a chain that I have knowledge of?</b></p> <p>8 Q. Uh-huh.</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Who is that?</p> <p>11 <b>A. Cal-Maine Foods, C-A-L-M-A-I-N-E.</b></p> <p>12 Q. And Cal-Maine purchases eggs from</p> <p>13 Rose Acre and then resells them to supermarkets?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. All right. Any others?</p> <p>16 <b>A. Eggs-R-Us.</b></p> <p>17 Q. Where are they located?</p> <p>18 <b>A. In Missouri.</b></p> <p>19 Q. Okay. And it's your understanding</p> <p>20 that they purchase eggs from Rose Acre and then</p> <p>21 resell them to supermarkets?</p> <p>22 <b>A. Oh. No.</b></p>	<p style="text-align: right;">269</p> <p>1 then they turn around and sell them to retail</p> <p>2 grocers or supermarkets that we haven't</p> <p>3 identified?</p> <p>4 <b>A. I'm sure there's some that we</b></p> <p>5 <b>didn't discuss. Over that period of time we've</b></p> <p>6 <b>had customers -- we may have had them and lost</b></p> <p>7 <b>them. Off the top of my head I think we covered</b></p> <p>8 <b>the majority of them, but I know there would be</b></p> <p>9 <b>more. Our records would show that.</b></p> <p>10 Q. I wouldn't know looking at your</p> <p>11 records know what those customers do with those</p> <p>12 eggs; right?</p> <p>13 MR. MONICA: Objection. Calls for</p> <p>14 speculation.</p> <p>15 BY MR. STUEVE:</p> <p>16 Q. Your customer list, for example, I</p> <p>17 wouldn't know if they have -- if those eggs are</p> <p>18 distributed to corporate owned stores or whether</p> <p>19 or not they're resold to independent retail</p> <p>20 grocers or markets?</p> <p>21 MR. MONICA: Objection. Calls for</p> <p>22 speculation.</p>

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<p style="text-align: right;">270</p> <p>1 THE WITNESS: My customer list</p> <p>2 would not specify that exactly. No.</p> <p>3 BY MR. STUEVE:</p> <p>4 Q. Okay. But sitting here today,</p> <p>5 you've given me the best of your recollection;</p> <p>6 fair enough?</p> <p>7 <b>A. I can think about some more if you</b></p> <p>8 <b>want me to.</b></p> <p>9 Q. Why don't we take a break?</p> <p>10 MR. MONICA: Yeah.</p> <p>11 THE VIDEOGRAPHER: The time is</p> <p>12 3:27 p.m. We are going off the record.</p> <p>13 (A brief recess was taken.)</p> <p>14 THE VIDEOGRAPHER: This is the</p> <p>15 start of medial unit number five. The time is</p> <p>16 approximately 3:43 p.m. We are back on the</p> <p>17 record.</p> <p>18 BY MR. STUEVE:</p> <p>19 Q. Mr. Hinton, you've mentioned</p> <p>20 Lindsey Schepman and Amanda Jackson as the ones</p> <p>21 principally responsible for shell egg sales</p> <p>22 prior to the restructuring in 2012, basically</p>	<p style="text-align: right;">272</p> <p>1 <b>directly with the customer service and with the</b></p> <p>2 <b>farms on -- if we have a need -- if we're short</b></p> <p>3 <b>on eggs or long on eggs Bob helps procure</b></p> <p>4 <b>additional supply for us or he helps sell eggs</b></p> <p>5 <b>outside of our -- we would say our day-to-day</b></p> <p>6 <b>customers.</b></p> <p>7 Q. So let's take when you say long on</p> <p>8 eggs, you mean Rose Acre's supply is exceeding</p> <p>9 its sales volume?</p> <p>10 <b>A. On a particular -- in a particular</b></p> <p>11 <b>week. Yes.</b></p> <p>12 Q. And in those circumstances what</p> <p>13 would Bob Niewedde do?</p> <p>14 <b>A. Bob works with Lindsey directly to</b></p> <p>15 <b>help identify, you know, what's the best avenue</b></p> <p>16 <b>to go with the eggs we are long on. If that's</b></p> <p>17 <b>the case, we have more eggs that particular week</b></p> <p>18 <b>than what our regular customers are ordering, so</b></p> <p>19 <b>he will look on the outside to see what we can</b></p> <p>20 <b>market the eggs for. The different channels</b></p> <p>21 <b>that he would sell those eggs or look to market</b></p> <p>22 <b>those eggs to would be, for example, it would be</b></p>
<p style="text-align: right;">271</p> <p>1 from timeframe we were talking about was 2000 to</p> <p>2 2012; is that right?</p> <p>3 <b>A. Right, Lindsey Schepman.</b></p> <p>4 Q. I have it down S-H-E-P-M-A-N?</p> <p>5 <b>A. S-C-H-E-P-M-A-N.</b></p> <p>6 Q. All right. Pronounced Schepman?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. So Lindsey Schepman and Amanda</p> <p>9 Jackson from 2000 to the 2012 timeframe had</p> <p>10 principal responsibility for shell egg sales; is</p> <p>11 that correct?</p> <p>12 <b>A. Along with myself. Yes.</b></p> <p>13 Q. All right. And then what about</p> <p>14 Bob Niewedde? I had him down as shell egg sales</p> <p>15 20 years?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. What about him? What was his</p> <p>18 role?</p> <p>19 <b>A. Bob is -- I speak of it as he</b></p> <p>20 <b>manages our longs and shorts.</b></p> <p>21 Q. Could you explain that?</p> <p>22 <b>A. Yes. When -- Bob works with --</b></p>	<p style="text-align: right;">273</p> <p>1 <b>through -- he would post eggs on ECI for sale.</b></p> <p>2 <b>He would talk to shell egg brokers</b></p> <p>3 <b>like Eggs-R-Us or -- and also he works with our</b></p> <p>4 <b>customers that export eggs. So his process</b></p> <p>5 <b>would be that he would talk to all his different</b></p> <p>6 <b>outlets that he would have to market the eggs to</b></p> <p>7 <b>someone that's not our weekly, daily customer,</b></p> <p>8 <b>and then get the pricing that he thought we</b></p> <p>9 <b>could get for those eggs and then consult with</b></p> <p>10 <b>Lindsey as far as, you know, what's out there</b></p> <p>11 <b>available and also Aaron Heironimus comes into</b></p> <p>12 <b>play with this because Aaron who is over the</b></p> <p>13 <b>liquid eggs and then Jeff Cutler who is</b></p> <p>14 <b>vice-president of processing for liquid and dry</b></p> <p>15 <b>eggs, they would all discuss what the best</b></p> <p>16 <b>market to go with those eggs, whether it would</b></p> <p>17 <b>be to sell them into the shell egg market or to</b></p> <p>18 <b>break those eggs and sell them into the liquid</b></p> <p>19 <b>or dried markets.</b></p> <p>20 Q. ECI?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. What is that?</p>



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<p style="text-align: right;">274</p> <p>1       <b>A. Stands for egg clearinghouse.</b></p> <p>2       Q. So that would be one channel for</p> <p>3 them; right?</p> <p>4       <b>A. Yes.</b></p> <p>5       Q. Other shell egg brokers; correct?</p> <p>6       <b>A. Correct.</b></p> <p>7       Q. Potential customers who export</p> <p>8 eggs; right?</p> <p>9       <b>A. Yes.</b></p> <p>10      Q. And then possibly for the breaking</p> <p>11 market?</p> <p>12      <b>A. Correct.</b></p> <p>13      Q. And then what about your existing</p> <p>14 shell egg customers? What about the possibility</p> <p>15 of reaching out to them to run promotions that</p> <p>16 would increase the demand?</p> <p>17      <b>A. That's part of the discussion with</b></p> <p>18 <b>Lindsey.</b></p> <p>19      Q. Okay. And what would Lindsey do?</p> <p>20 Would she reach out then to existing customers</p> <p>21 and see if they would be interested in running a</p> <p>22 special, if you will, or promotion, with respect</p>	<p style="text-align: right;">276</p> <p>1 the various options that Rose Acre would</p> <p>2 consider?</p> <p>3       <b>A. Okay. What we would do, after</b></p> <p>4 <b>consulting with Lindsey and Aaron and Jeff,</b></p> <p>5 <b>they -- we have three breaking plants where we</b></p> <p>6 <b>break eggs. We've got liquid customers --</b></p> <p>7 <b>liquid and dried customers that we supply from</b></p> <p>8 <b>those plants. So we look -- we have basically</b></p> <p>9 <b>two options. We can -- we can look at what we</b></p> <p>10 <b>do with the liquid eggs and either go out and</b></p> <p>11 <b>source additional liquid eggs to meet customers</b></p> <p>12 <b>demand or we go out and source shell eggs to</b></p> <p>13 <b>meet customers demand. So they evaluate which</b></p> <p>14 <b>direction they want to go, what's the best</b></p> <p>15 <b>option for the company.</b></p> <p>16      Q. And so there are occasions then</p> <p>17 that Rose Acre will purchase eggs that they did</p> <p>18 not produce?</p> <p>19      <b>A. Yes.</b></p> <p>20      Q. And how frequently does that</p> <p>21 occur?</p> <p>22      <b>A. Quite often.</b></p>
<p style="text-align: right;">275</p> <p>1 to Rose Acre eggs?</p> <p>2       <b>A. Yes.</b></p> <p>3       Q. Okay. And how frequently are you</p> <p>4 dealing with short or long situations?</p> <p>5       <b>A. Every week.</b></p> <p>6       Q. Okay. And is this -- this</p> <p>7 process, is dealing with short and long</p> <p>8 situations, does this keep Bob Niewedde busy</p> <p>9 full-time?</p> <p>10      <b>A. It keeps Bob very busy. Bob has</b></p> <p>11 <b>some other responsibilities, as well.</b></p> <p>12      Q. What are those other</p> <p>13 responsibilities?</p> <p>14      <b>A. He works with the -- help customer</b></p> <p>15 <b>service with the liquid and dried products.</b></p> <p>16      Q. Now, in the short situation, as I</p> <p>17 understand it, that would be a situation where</p> <p>18 the sales to existing customers is exceeding the</p> <p>19 current supply that Rose Acre has; is that</p> <p>20 right?</p> <p>21      <b>A. Correct.</b></p> <p>22      Q. In those circumstances what are</p>	<p style="text-align: right;">277</p> <p>1       Q. Okay. And who are the producers</p> <p>2 that Rose Acre purchases from, the producers?</p> <p>3       <b>A. We would -- well, sometimes we</b></p> <p>4 <b>purchase through ECI. So when you purchase</b></p> <p>5 <b>through ECI it's a blind trading. So you don't</b></p> <p>6 <b>know when you make the trade exactly who the</b></p> <p>7 <b>producer is you're buying from, but -- then as</b></p> <p>8 <b>far as direct, we purchase eggs on a weekly</b></p> <p>9 <b>basis from Trillium -- Trillium Farms and also</b></p> <p>10 <b>from Eggs-R-Us. In the past we've purchased</b></p> <p>11 <b>eggs from Hillandale. I believe we've purchased</b></p> <p>12 <b>eggs from Cal-Maine, to name a few. Up in</b></p> <p>13 <b>Michigan we've purchased eggs from Vandebunte,</b></p> <p>14 <b>Hamilton co-op, Vande Bunte, you need that one?</b></p> <p>15 <b>V-A-N-D-E, B-U-N-T-E.</b></p> <p>16       <b>Let's see. Other purchases.</b></p> <p>17       <b>We purchase eggs from Herbrucks,</b></p> <p>18 <b>which I stated earlier.</b></p> <p>19      Q. Omega-3?</p> <p>20      <b>A. Organics and some cage-free.</b></p> <p>21       <b>We purchase eggs from Glenwood</b></p> <p>22 <b>Farms.</b></p>

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<p style="text-align: right;">278</p> <p>1 Q. Located where?</p> <p>2 <b>A. In Nashville, North Carolina. And</b></p> <p>3 <b>I'm sure there are others that would be in our</b></p> <p>4 <b>records.</b></p> <p>5 Q. What records? Did you keep a list</p> <p>6 of perspective producers that you could buy</p> <p>7 from?</p> <p>8 <b>A. Yeah. Bob has track -- he tracks</b></p> <p>9 <b>our egg purchases.</b></p> <p>10 Q. Okay. How is that tracked?</p> <p>11 <b>A. Bob has files with that.</b></p> <p>12 Q. All right. And do you know how he</p> <p>13 tracks them?</p> <p>14 <b>A. He tracks each purchase.</b></p> <p>15 Q. Okay. Is there a summary sheet</p> <p>16 that he prepares?</p> <p>17 <b>A. I know he -- I -- I'm not sure</b></p> <p>18 <b>what he's got for a summary sheet.</b></p> <p>19 Q. Do you know on average what</p> <p>20 percentage of the eggs that Rose Acre uses in</p> <p>21 its business are purchased from other egg</p> <p>22 producers?</p>	<p style="text-align: right;">280</p> <p>1 what portion of them do you source through ECI?</p> <p>2 <b>A. I don't know off the top of my</b></p> <p>3 <b>head.</b></p> <p>4 Q. Is it one of the channels that you</p> <p>5 do use?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Okay. And you had indicated</p> <p>8 earlier it's a blind trade so you don't know who</p> <p>9 the producer is; is that right?</p> <p>10 <b>A. Correct.</b></p> <p>11 Q. Are there any brokers that you buy</p> <p>12 eggs from?</p> <p>13 <b>A. Eggs-R-Us I would consider to</b></p> <p>14 <b>be -- in that world we call it egg traders.</b></p> <p>15 Q. Okay.</p> <p>16 <b>A. I may have said broker, but egg</b></p> <p>17 <b>trader.</b></p> <p>18 Q. Do your brokers that you utilize,</p> <p>19 you've identified them, do they represent other</p> <p>20 egg producers?</p> <p>21 <b>A. Which brokers?</b></p> <p>22 Q. I'm talking about, you know, the</p>
<p style="text-align: right;">279</p> <p>1 <b>A. Off the top much my head, I don't</b></p> <p>2 <b>know the exact percentage, but it's probably</b></p> <p>3 <b>less than 10 percent.</b></p> <p>4 Q. Who at Hillandale do you deal</p> <p>5 with?</p> <p>6 <b>A. Gary Bethel.</b></p> <p>7 Q. Okay. And do you source eggs from</p> <p>8 their various locations?</p> <p>9 <b>A. Not on a regular basis. No. I've</b></p> <p>10 <b>gotten eggs before from him. It's been a long</b></p> <p>11 <b>time since we've bought anything from Gary. I</b></p> <p>12 <b>recall buying some medium eggs several years</b></p> <p>13 <b>ago.</b></p> <p>14 <b>Do you want liquid suppliers that</b></p> <p>15 <b>we bought eggs from, too?</b></p> <p>16 Q. Sure.</p> <p>17 <b>A. We buy -- we bought eggs from</b></p> <p>18 <b>Michael Foods, Creighton Brothers, Daybreak</b></p> <p>19 <b>Foods, Sonstegard, S-O-N-S-T-E-G-A-R-D, Texas</b></p> <p>20 <b>Egg, Rembrandt. That's the ones I can think of</b></p> <p>21 <b>right now.</b></p> <p>22 Q. Of the eggs that you purchase,</p>	<p style="text-align: right;">281</p> <p>1 folks that you are -- for example, Marketing</p> <p>2 Concepts. Do they represent other egg</p> <p>3 producers?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Just Rose Acre?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. I assume they also provide</p> <p>8 brokerage services for other grocery products?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Okay. Is that the same thing with</p> <p>11 Alliance?</p> <p>12 <b>A. At the time we dealt. Yes.</b></p> <p>13 Q. And also it would be true of</p> <p>14 Daymond Associates?</p> <p>15 <b>A. No.</b></p> <p>16 Q. So they also represent other egg</p> <p>17 producers?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Okay. Who else do they represent?</p> <p>20 <b>A. Well, I don't -- I know within</b></p> <p>21 <b>regards to Kroger, Kroger has multiple</b></p> <p>22 <b>suppliers, but I guess I don't have direct</b></p>

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<p style="text-align: right;">282</p> <p>1 <b>knowledge that they represent those other</b>  2 <b>suppliers, but I know of other suppliers to</b>  3 <b>Kroger. I'm aware of other suppliers, but I</b>  4 <b>guess I don't actually have direct knowledge of</b>  5 <b>them representing them.</b>  6 Q. Okay. So we've identified --  7 again, I'm focusing on 2000 to 2012 your role  8 with respect to shell egg sales, Amanda Jackson,  9 Lindsey Schepman -- I keep putting an R in  10 there. Lindsey Schepman and then we have talked  11 about --  12 MR. MONICA: Bob.  13 BY MR. STUEVE:  14 Q. Bob, is it Niewedde?  15 <b>A. Bob Niewedde; correct.</b>  16 Q. And then what about are there any  17 other folks during that time that we haven't  18 mentioned that were involved in shell egg sales  19 or purchases?  20 <b>A. I don't remember when Joan</b>  21 <b>retired. Joan Schlehuser, but I can't remember</b>  22 <b>what year she retired exactly.</b></p>	<p style="text-align: right;">284</p> <p>1 MR. MONICA: He's teasing the  2 person on the phone.  3 MR. STUEVE: We didn't ask any  4 questions about UEP, USEM, just so you know.  5 BY MR. STUEVE:  6 Q. Okay. If you would, Exhibit 517  7 there, if you could turn to topic number 8?  8 <b>A. Okay.</b>  9 Q. And you understand you've been  10 designated to testify with respect to this topic  11 on behalf of Rose Acre?  12 <b>A. Yes.</b>  13 Q. As I understand it, you spoke with  14 the person who actually tracks this in  15 preparation for your deposition; is that right?  16 <b>A. Yes. I did.</b>  17 Q. Let's talk about 2013. What  18 information did he tell you with respect to the  19 top 10 customers by volume of eggs sold?  20 <b>A. He didn't give me anything exact</b>  21 <b>on 2013 because I don't think he's compiled 2013</b>  22 <b>yet.</b></p>
<p style="text-align: right;">283</p> <p>1 Q. What office was she out of?  2 <b>A. Seymour.</b>  3 Q. How do you spell her last name?  4 <b>A. S-C-H-L-E-U -- that's not right.</b>  5 <b>S-C-H-L-E-H-U-S-E-R.</b>  6 Q. Sounds like a good German name?  7 <b>A. Yes. It is.</b>  8 Q. Is she retired or is she working  9 for somebody else now?  10 <b>A. No. She retired.</b>  11 Q. Anyone else?  12 <b>A. I don't believe so. Not since</b>  13 <b>2000.</b>  14 MR. MONICA: Anyone on the phone?  15 MS. REDDING: Whitney Redding is  16 on the phone.  17 MS. CRABTREE: Sorry, Whitney.  18 MR. MONICA: We had it muted in  19 the beginning when we came back.  20 BY MR. STUEVE:  21 Q. Are we done talking about UEP,  22 USEM -- just teasing.</p>	<p style="text-align: right;">285</p> <p>1 Q. Okay.  2 <b>A. But I can speak to our current top</b>  3 <b>customers.</b>  4 Q. Sure. And this would be basically  5 then based off of 2012 data?  6 <b>A. It would be based off my knowledge</b>  7 <b>and what we sell the customers.</b>  8 Q. Okay. But what I'm saying is this  9 would be current customers?  10 <b>A. Current customers.</b>  11 Q. Okay. Go ahead.  12 <b>A. Our top customers currently for</b>  13 <b>2013 would be Save-A-Lot, Aldie, Kroger, Kraft</b>  14 <b>Foods, Topco, Wal-Mart, Cal-Maine Foods, US</b>  15 <b>Foods, AWG, and Flowers.</b>  16 Q. Okay. So we talked about  17 Save-A-Lot; right?  18 <b>A. Yes.</b>  19 Q. And is that currently your largest  20 shell egg customer?  21 <b>A. Yes.</b>  22 Q. And approximately what percentage</p>

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<p style="text-align: right;">286</p> <p>1 of shell eggs are purchased by Save-A-Lot?</p> <p>2 <b>A. Total eggs or shell eggs?</b></p> <p>3 Q. Shell eggs?</p> <p>4 <b>A. Shell eggs only?</b></p> <p>5 Q. Uh-huh.</p> <p>6 <b>A. They would be -- top of my head,</b></p> <p>7 <b>it's around 10 percent.</b></p> <p>8 Q. And just to make sure, on</p> <p>9 Save-A-Lot, what portion of the shell eggs are</p> <p>10 picked up?</p> <p>11 <b>A. Today, 97 percent.</b></p> <p>12 Q. With respect to Aldie, what</p> <p>13 percentage of your shell eggs are sold to Aldie?</p> <p>14 <b>A. Probably say less than 8 percent.</b></p> <p>15 Q. And what percentage of their shell</p> <p>16 egg purchases are picked up?</p> <p>17 <b>A. 10 percent.</b></p> <p>18 Q. And with respect to the other</p> <p>19 90 percent, who handles transportation?</p> <p>20 <b>A. We do.</b></p> <p>21 Q. And --</p> <p>22 <b>A. Rose Acres.</b></p>	<p style="text-align: right;">288</p> <p>1 <b>A. Locations?</b></p> <p>2 Q. For Aldie distribution centers?</p> <p>3 <b>A. That we deliver?</b></p> <p>4 Q. Yeah?</p> <p>5 <b>A. Yeah. Like ten.</b></p> <p>6 Q. Okay. And are all those -- are</p> <p>7 these Aldie warehouses that you drop the eggs</p> <p>8 off at and then Aldie is then responsible for</p> <p>9 delivering them to the stores directly?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. That's what I needed to know.</p> <p>12 With respect to Aldie, do they</p> <p>13 purchase both commodity and specialty eggs?</p> <p>14 <b>A. Only commodity eggs.</b></p> <p>15 Q. Okay. And when is the last time</p> <p>16 that you negotiated the contract price for</p> <p>17 commodity eggs?</p> <p>18 <b>A. Last -- it was late summer 2012.</b></p> <p>19 <b>Between summer and fall of 2012.</b></p> <p>20 Q. And were there several Urner Barry</p> <p>21 markets that were utilized for that bid?</p> <p>22 <b>A. No.</b></p>
<p style="text-align: right;">287</p> <p>1 Q. And are those transported to their</p> <p>2 warehouses?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And where are their warehouses</p> <p>5 located?</p> <p>6 <b>A. Denton, Texas, Kansas City -- I'm</b></p> <p>7 <b>sorry. It's not Kansas City, it's Olathe,</b></p> <p>8 <b>Kansas. Sorry.</b></p> <p>9 Q. There is a difference?</p> <p>10 <b>A. There is a difference. It's</b></p> <p>11 <b>outside, so it's Olathe. Faribault, Minnesota,</b></p> <p>12 <b>it's F-A-R-I-B-U-A-L-T.</b></p> <p>13 MR. MONICA: We'll let you off of</p> <p>14 that one.</p> <p>15 THE WITNESS: I think I got it</p> <p>16 right.</p> <p>17 And then you're wanted to know all</p> <p>18 the delivery locations; right?</p> <p>19 BY MR. STUEVE:</p> <p>20 Q. Yes.</p> <p>21 <b>A. The delivery locations. Okay.</b></p> <p>22 Q. Are there several?</p>	<p style="text-align: right;">289</p> <p>1 Q. What was the market that was</p> <p>2 utilized?</p> <p>3 <b>A. The Midwest Urner Barry.</b></p> <p>4 Q. Okay. Do you remember, were there</p> <p>5 several different bids within that Urner Barry</p> <p>6 Midwest market?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And how did that break out?</p> <p>9 <b>A. I don't know exactly each</b></p> <p>10 <b>division, but it ranged from 21 back to 30 back.</b></p> <p>11 Q. And do you -- was that part of a</p> <p>12 competitive bidding process?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Do you know who else bid on that?</p> <p>15 <b>A. I don't know every one that bid,</b></p> <p>16 <b>but I know some of the bidders.</b></p> <p>17 Q. Who were they?</p> <p>18 <b>A. Weaver in Ohio. Sauder in</b></p> <p>19 <b>Pennsylvania, S-A-U-D-E-R. Country Charm in</b></p> <p>20 <b>Georgia. Cal-Maine Foods out of Mississippi.</b></p> <p>21 <b>Those are the ones I can think of just off the</b></p> <p>22 <b>top of my head.</b></p>

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<p style="text-align: right;">290</p> <p>1 Q. Do you know what portion of their 2 shell eggs, commodity shell eggs you supply? 3 <b>A. Approximately 50 percent.</b> 4 Q. Who has the other 50? 5 <b>A. All the producers -- I can go 6 back. To my knowledge, between Sauder, 7 Cal-Maine, Country Charm, and Weaver are all 8 suppliers. I don't recall if there's another 9 supplier. There may be one more, but I'm not 10 sure right off.</b> 11 Q. Okay. Do you use a broker to 12 assist you with that customer? 13 <b>A. No.</b> 14 Q. What is the analysis for you in 15 determining whether or not you need a broker for 16 a particular customer? 17 <b>A. If a customer that I'm going to 18 deal with is already involved with a broker and 19 they tell me that there's a broker that they 20 work with and -- but other than that, as I 21 discussed our brokers, with all the customers we 22 have our normal practice is not to use brokers.</b></p>	<p style="text-align: right;">292</p> <p>1 use or customers that you use Marketing Concepts 2 for? 3 <b>A. Today, just Save-A-Lot.</b> 4 Q. Okay. And why do you use it with 5 Save-A-Lot? The size? 6 <b>A. The relationship started -- well, 7 our relationship with Marketing Concepts started 8 15 years ago or more. They came -- they 9 contacted us and said they had -- they had a 10 relationship with Save-A-Lot and wanted to know 11 if we would be interested in working with them 12 on an egg program.</b> 13 Q. But you dropped Marketing Concepts 14 for a period of time; right? 15 <b>A. Yes. And went with Alliance for 16 about a two-year period.</b> 17 Q. Okay. Was that at the request of 18 Save-A-Lot or was it your decision? 19 <b>A. It was our decision to go with 20 Alliance.</b> 21 Q. Okay. But other than Save-A-Lot 22 then and the in-house broker for Kroger, you</p>
<p style="text-align: right;">291</p> <p>1 Q. So is it fair to say unless it's a 2 customer that has a broker that they utilize, 3 you don't use brokers? 4 <b>A. I don't go out and look for 5 brokers for new business. No. We've got a few 6 that's established for years like Marketing 7 Concepts, and then the other broker that we've 8 discussed, Daymond, they're an in-house broker 9 with Kroger.</b> 10 Q. So if you want to do business with 11 Kroger you've got to deal with their broker? 12 <b>A. We work with -- I don't know if I 13 can say you have to work with them. I would 14 have to check and probably talk with Amanda for 15 sure on that. I know we utilize them and I know 16 they're an in-house broker, which is not 17 uncommon for supermarkets.</b> 18 Q. Is that the only broker -- do you 19 use any other broker for that relationship other 20 than Kroger's in-house broker? 21 <b>A. No.</b> 22 Q. What are all the clients that you</p>	<p style="text-align: right;">293</p> <p>1 don't use a broker for any other customers? 2 <b>A. No. That's not true.</b> 3 <b>We have some brokers for dried 4 products.</b> 5 Q. I'm sorry. I'm just focusing 6 specifically for shell egg? 7 <b>A. Okay. Trying to think if there's 8 a broker. No -- that I can recall those are the 9 brokers that we use.</b> 10 Q. Okay. For those customers? 11 <b>A. For?</b> 12 Q. We've identified Kroger and 13 Save-A-Lot. I just want to make sure that for 14 shell egg customers? 15 <b>A. Topco.</b> 16 Q. And Topco? 17 <b>A. Yeah.</b> 18 Q. And you use -- any other customers 19 that you use a broker for? Again, I'm focusing 20 on shell egg customers. 21 <b>A. Right. Not that I can think of 22 right now.</b></p>

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<p style="text-align: right;">294</p> <p>1 Q. All right. Now, with respect to</p> <p>2 Kroger, what percentage of your shell egg sales</p> <p>3 are attributable to Kroger?</p> <p>4 <b>A. I'm going to get real fuzzy on</b></p> <p>5 <b>calculating percentages, but I know loads that</b></p> <p>6 <b>they buy, so I'll just do my best. I'm more</b></p> <p>7 <b>familiar with the number of loads customers</b></p> <p>8 <b>purchase that I think of by percentage of sales.</b></p> <p>9 <b>I'm in my mind trying to process that off the</b></p> <p>10 <b>top of my head. I know how much people buy.</b></p> <p>11 Q. On a weekly basis?</p> <p>12 <b>A. Yes. Loads per week. That's how</b></p> <p>13 <b>we think of -- the size of a customer is based</b></p> <p>14 <b>how many loads of eggs per week they purchase</b></p> <p>15 <b>from us. Internally that's our thought process.</b></p> <p>16 Q. You're taking that as a percentage</p> <p>17 of your --</p> <p>18 <b>A. Total sales and trying to do it in</b></p> <p>19 <b>my head and calculate it for you.</b></p> <p>20 Q. What is your total loads per week</p> <p>21 that you sell on average?</p> <p>22 <b>A. Okay. We sell -- on just shell</b></p>	<p style="text-align: right;">296</p> <p>1 <b>cage-free.</b></p> <p>2 Q. Do you purchase those or do those</p> <p>3 come from your own facilities?</p> <p>4 <b>A. We purchase.</b></p> <p>5 Q. Who did you purchase from?</p> <p>6 <b>A. From Eggs-R-Us and Trillium farms.</b></p> <p>7 Q. And how do you price the Omega-3</p> <p>8 and the cage-free for Kroger?</p> <p>9 <b>A. I think we discussed that this</b></p> <p>10 <b>morning, but we can review it. We discussed the</b></p> <p>11 <b>Omega-3 and the cage-free would be priced -- we</b></p> <p>12 <b>go through the same process with cage-free as we</b></p> <p>13 <b>would with Omega-3.</b></p> <p>14 Q. Well, as I understand it, we</p> <p>15 talked about the specialty egg pricing where you</p> <p>16 take your costs and then you add a profit to get</p> <p>17 to the bid price. Remember that whole line of</p> <p>18 questions; right?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. What about in a situation</p> <p>21 here where you're actually purchasing the eggs?</p> <p>22 <b>A. We look at the -- we take what we</b></p>
<p style="text-align: right;">295</p> <p>1 <b>eggs?</b></p> <p>2 Q. Yeah.</p> <p>3 <b>A. Okay. We do --</b></p> <p>4 Q. I'm just trying to figure out what</p> <p>5 you're using to come up with your percentage</p> <p>6 like the 10 percent what your total loads?</p> <p>7 <b>A. I'm using shell about</b></p> <p>8 <b>300 truckloads per week.</b></p> <p>9 Q. Okay. And approximately how many</p> <p>10 do you do for a week for Kroger?</p> <p>11 <b>A. Loads?</b></p> <p>12 Q. Yeah.</p> <p>13 <b>A. Oh, that's better. We do</b></p> <p>14 <b>approximately about 16.</b></p> <p>15 Q. So we could take that as a factor</p> <p>16 of 300 and get our percentage?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Okay. And is that all commodity?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Okay. What specialty eggs do you</p> <p>21 sell?</p> <p>22 <b>A. We sell Kroger an Omega-3 and a</b></p>	<p style="text-align: right;">297</p> <p>1 <b>purchased the eggs for and we add a profit to</b></p> <p>2 <b>arrive at a price.</b></p> <p>3 Q. All right. And so when would you</p> <p>4 have bid on the Kroger specialty egg business</p> <p>5 last?</p> <p>6 <b>A. About three months ago.</b></p> <p>7 Q. Okay. And were you involved in</p> <p>8 that?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. What profit did you build into the</p> <p>11 specialty egg bid?</p> <p>12 <b>A. On which eggs?</b></p> <p>13 Q. On the Omega-3?</p> <p>14 <b>A. Okay. The Omega-3 has not been</b></p> <p>15 <b>bid for about a year and a half.</b></p> <p>16 Q. Okay. What profit margin did you</p> <p>17 build in?</p> <p>18 MR. MONICA: Objection. The term</p> <p>19 profit margin.</p> <p>20 THE WITNESS: As I described this</p> <p>21 morning, the profit we added to our cost on the</p> <p>22 Omega-3 that we sell Kroger, I don't recall</p>



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<p style="text-align: right;">298</p> <p>1 exactly what that profit was.</p> <p>2 BY MR. STUEVE:</p> <p>3 Q. What did you bid in the past</p> <p>4 three months?</p> <p>5 <b>A. Some cage-free eggs.</b></p> <p>6 Q. All right. What margin or profit</p> <p>7 did you build into that?</p> <p>8 MR. MONICA: Objection to the term</p> <p>9 margin. You can answer.</p> <p>10 THE WITNESS: On the eggs that we</p> <p>11 purchased?</p> <p>12 BY MR. STUEVE:</p> <p>13 Q. On the bid to Kroger for the</p> <p>14 cage-free?</p> <p>15 <b>A. Okay. The recent sale to Kroger</b></p> <p>16 <b>on cage-free eggs are on loads we were</b></p> <p>17 <b>purchasing from other producers.</b></p> <p>18 Q. Right.</p> <p>19 <b>A. And we took the price that we had</b></p> <p>20 <b>to pay and added a profit to that price to offer</b></p> <p>21 <b>Kroger a price for those eggs.</b></p> <p>22 Q. And what was the profit that you</p>	<p style="text-align: right;">300</p> <p>1 <b>A. I'm selling Kroger at one price</b></p> <p>2 <b>for their cage-free eggs I'm selling them.</b></p> <p>3 Q. Regardless what you have to pay</p> <p>4 Egg Co. or Trillium?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Does that price you have to pay</p> <p>7 Egg Co. or Trillium vary at all during this</p> <p>8 period?</p> <p>9 <b>A. Well, as we discussed, the</b></p> <p>10 <b>Trillium is locked in until Thanksgiving next</b></p> <p>11 <b>year. The Eggs-R-Us is something we would</b></p> <p>12 <b>review this summer and then see where that goes.</b></p> <p>13 Q. And I think you're one step ahead</p> <p>14 of me.</p> <p>15 What I was asking you is, your</p> <p>16 contract with Kroger for the price on the</p> <p>17 cage-free we're talking about that you just bid</p> <p>18 within the past three months; right? Let me</p> <p>19 back up.</p> <p>20 It's my understanding you put a</p> <p>21 bid into Kroger that was accepted by Kroger for</p> <p>22 cage-free; is that correct, in the past</p>
<p style="text-align: right;">299</p> <p>1 added?</p> <p>2 <b>A. Without looking at the exact</b></p> <p>3 <b>document I -- it would have been somewhere less</b></p> <p>4 <b>than \$0.20. I don't know the exact price.</b></p> <p>5 Q. In the -- how long will this</p> <p>6 contract then be in place with that profit built</p> <p>7 in?</p> <p>8 <b>A. We have -- on some of the eggs it</b></p> <p>9 <b>will be through Thanksgiving this year, on an</b></p> <p>10 <b>approximate one load a week.</b></p> <p>11 <b>On the other load it would -- I</b></p> <p>12 <b>need to double-check, but I believe it's the --</b></p> <p>13 <b>the price was set through July and then it could</b></p> <p>14 <b>be reevaluated for a longer period of time.</b></p> <p>15 Q. And how many loads a week?</p> <p>16 <b>A. That was a second load.</b></p> <p>17 Q. Okay. And is -- does the price</p> <p>18 fluctuate at all based on what you have to pay</p> <p>19 Egg Co. or Trillium?</p> <p>20 <b>A. The price?</b></p> <p>21 Q. The price that you charge Kroger,</p> <p>22 does it fluctuate based on the what you charge?</p>	<p style="text-align: right;">301</p> <p>1 three months?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And the source for those eggs is</p> <p>4 Egg Co. and Trillium; is that right?</p> <p>5 <b>A. Eggs-R-Us and Trillium.</b></p> <p>6 Q. I'm sorry. Eggs-R-Us and</p> <p>7 Trillium. So the bid that you submitted to</p> <p>8 Kroger, does it fluctuate depending on the price</p> <p>9 that you have to pay to Eggs-R-Us or Trillium?</p> <p>10 <b>A. No. Like I said, I've got one</b></p> <p>11 <b>price to Kroger for their cage-free.</b></p> <p>12 Q. I just didn't know -- I understand</p> <p>13 that, but I didn't know if that price was a</p> <p>14 formula that would fluctuate based on what you</p> <p>15 have to pay to Trillium or Eggs-R-Us?</p> <p>16 <b>A. The price I sell to Kroger is a</b></p> <p>17 <b>fixed price.</b></p> <p>18 Q. Okay. And that fixed price has a</p> <p>19 profit built in of somewhere in the \$0.20 range;</p> <p>20 is that correct?</p> <p>21 <b>A. Yes. Less than \$0.20, but, yes.</b></p> <p>22 Q. Okay. And then as I understand</p>

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<p style="text-align: right;">302</p> <p>1 your testimony, you also said that you lock in a</p> <p>2 purchase price with Eggs-R-Us and Trillium for a</p> <p>3 period of time; is that right?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. All right. And with respect to</p> <p>6 Eggs-R-Us, how long have you locked in the</p> <p>7 purchase price?</p> <p>8 <b>A. Like I already stated, it's like</b></p> <p>9 <b>July or midsummer.</b></p> <p>10 Q. And then with respect to Trillium</p> <p>11 how long did you lock that price in?</p> <p>12 <b>A. Until next Thanksgiving.</b></p> <p>13 Q. All right. And is that typically</p> <p>14 how you bid your specialty eggs that you have to</p> <p>15 purchase from a third-party, you give the</p> <p>16 customer a set price that has a margin in it or</p> <p>17 a profit in it and then you attempt to secure a</p> <p>18 long-term contract with the supplier?</p> <p>19 MR. MONICA: Object to the term</p> <p>20 margin.</p> <p>21 THE WITNESS: It's hard to lock in</p> <p>22 at a long-term price in our business because of</p>	<p style="text-align: right;">304</p> <p>1 Q. And that covered a period of time;</p> <p>2 right?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Okay. And what I'm asking you is,</p> <p>5 when you -- with your other customers on the</p> <p>6 specialty eggs that you purchase, do you try to</p> <p>7 do the same approach where you get a contract</p> <p>8 with a supplier over a period of time and then</p> <p>9 you bid the specialty egg based on your</p> <p>10 knowledge that you can get the specialty egg at</p> <p>11 that price for that period of time?</p> <p>12 <b>A. With a supplier that I would buy</b></p> <p>13 <b>eggs from for specialty eggs I would try and</b></p> <p>14 <b>negotiate a price for a period of time, which I</b></p> <p>15 <b>stated for in most cases would be a quarterly</b></p> <p>16 <b>and then with feed adjustment is how it</b></p> <p>17 <b>typically works.</b></p> <p>18 Q. You keep saying you stated before.</p> <p>19 If you just answer my question, because you</p> <p>20 haven't answered some of these questions. I'm</p> <p>21 asking you because I'm trying to get</p> <p>22 clarification.</p>
<p style="text-align: right;">303</p> <p>1 the fluctuation in feed costs. So you negotiate</p> <p>2 what you can, but some of the customers you can</p> <p>3 negotiate they would just state up front that</p> <p>4 based on what feed is doing, so if there's a</p> <p>5 movement in feed. Typically it would be like a</p> <p>6 quarterly adjustment to go back and review feed</p> <p>7 cost. They may want to increase or possibly</p> <p>8 decrease the price based on what grain has done.</p> <p>9 BY MR. STUEVE:</p> <p>10 Q. If you would, would you just</p> <p>11 answer my question, though.</p> <p>12 Is what you did here with Kroger,</p> <p>13 is that your typical approach, which is you did</p> <p>14 negotiate both with Trillium and Eggs-R-Us a</p> <p>15 contract over a period of time for a set price;</p> <p>16 right?</p> <p>17 MR. MONICA: Objection. Vague as</p> <p>18 to typical. You can answer.</p> <p>19 THE WITNESS: I negotiated a set</p> <p>20 price with Trillium and Eggs-R-Us for cage-free</p> <p>21 eggs for Kroger.</p> <p>22 BY MR. STUEVE:</p>	<p style="text-align: right;">305</p> <p>1 So, with respect to Trillium, for</p> <p>2 example, when did you negotiate the price</p> <p>3 through the next Thanksgiving?</p> <p>4 <b>A. With Trillium?</b></p> <p>5 Q. Yeah.</p> <p>6 <b>A. I negotiated it -- it was a</b></p> <p>7 <b>one-year price.</b></p> <p>8 Q. Okay. And do they get to adjust</p> <p>9 that price at any time during that one year?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Okay. And then you submitted a</p> <p>12 bid to Kroger based on that one year price;</p> <p>13 right?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. And you built in a margin of</p> <p>16 approximately \$0.20 for that one-year period; is</p> <p>17 that correct?</p> <p>18 MR. MONICA: Object to the term</p> <p>19 margin.</p> <p>20 THE WITNESS: We built in a profit</p> <p>21 for that period on the eggs we purchased from</p> <p>22 Trillium and sold to Kroger.</p>

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<p style="text-align: right;">306</p> <p>1 BY MR. STUEVE:</p> <p>2 Q. And that profit is approximately</p> <p>3 20 percent; right -- \$0.20; right?</p> <p>4 <b>A. I said it was less than \$0.20. I</b></p> <p>5 <b>didn't know exactly what it was.</b></p> <p>6 Q. Somewhere in that range?</p> <p>7 <b>A. Yes. I said less than 20.</b></p> <p>8 Q. So, now, you also -- when did you</p> <p>9 lock in your contract through July with</p> <p>10 Eggs-R-Us?</p> <p>11 <b>A. It was right around the first of</b></p> <p>12 <b>this year.</b></p> <p>13 Q. So that was approximately a six</p> <p>14 month contract then?</p> <p>15 <b>A. Yeah. I guess I want to clarify.</b></p> <p>16 <b>I don't have written contracts.</b></p> <p>17 <b>So when you say contracts, I think of</b></p> <p>18 <b>agreements. So I guess I want to clarify that.</b></p> <p>19 <b>There's no contract I can produce that's an</b></p> <p>20 <b>actual contract. So it depends on what you want</b></p> <p>21 <b>to use, but it's an agreement.</b></p> <p>22 Q. You have an agreement for</p>	<p style="text-align: right;">308</p> <p>1 <b>A. Okay.</b></p> <p>2 Q. A contract doesn't have to be in</p> <p>3 writing, it can be oral, it can be whatever you</p> <p>4 want. So just so you know, when I'm referring</p> <p>5 to contract I'm talking about an agreement;</p> <p>6 okay?</p> <p>7 <b>A. All right.</b></p> <p>8 Q. So you have a contract with</p> <p>9 Kroger, initially, with respect to their</p> <p>10 specialty egg that you bid based on the contract</p> <p>11 you had with Trillium for one year; is that</p> <p>12 right?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Okay. And that contract that you</p> <p>15 had with Kroger you built into that a profit of</p> <p>16 somewhere just under \$0.20 a dozen; is that</p> <p>17 correct?</p> <p>18 <b>A. Well, I said it's less than -- I</b></p> <p>19 <b>don't know the exact without looking at it.</b></p> <p>20 Q. Sir, I'm just trying to confirm</p> <p>21 your testimony. You have no idea -- I thought</p> <p>22 you said earlier that it was just under \$0.20?</p>
<p style="text-align: right;">307</p> <p>1 six months at a set price from Eggs-R-Us?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And you bid the Kroger specialty</p> <p>4 egg bid based on that set price from Eggs-R-Us</p> <p>5 for six months; is that correct?</p> <p>6 <b>A. I had a price established with</b></p> <p>7 <b>Kroger, already, from the bid with Trillium.</b></p> <p>8 Q. Okay.</p> <p>9 <b>A. I secured an additional load and</b></p> <p>10 <b>offered it to Kroger for the same price that I</b></p> <p>11 <b>was selling them to Trillium at. So I have one</b></p> <p>12 <b>price, as I stated before, with Kroger.</b></p> <p>13 Q. And so I just want to be clear</p> <p>14 then. So you don't have -- you don't -- as I</p> <p>15 understand it now, you had a contract price with</p> <p>16 Kroger that was based on the contract that you</p> <p>17 had in place from your supplier, Trillium?</p> <p>18 <b>A. Okay. I do not have a contract</b></p> <p>19 <b>with Kroger and I do not have a contract with</b></p> <p>20 <b>Trillium. I have agreements with both of them.</b></p> <p>21 Q. If you would, when I'm referring</p> <p>22 to contract I'm talking about agreement?</p>	<p style="text-align: right;">309</p> <p>1 <b>A. Well, that's not what I said.</b></p> <p>2 MR. MONICA: Hold on. Objection.</p> <p>3 You're badgering the witness. You're being</p> <p>4 argumentative. You've asked the question five</p> <p>5 times.</p> <p>6 MR. STUEVE: I just want to make a</p> <p>7 record of this. I repeatedly asked this witness</p> <p>8 questions. He won't answer them. Then he</p> <p>9 changes his testimony. We're going back to the</p> <p>10 Court if we can't get this depo done tomorrow</p> <p>11 and ask for more time.</p> <p>12 MR. MONICA: Move to strike the</p> <p>13 comments by counsel. They are inaccurate.</p> <p>14 You're harassing this witness. You've asked him</p> <p>15 20 times over and over and he keeps telling you</p> <p>16 the same thing. You don't like it so you keep</p> <p>17 asking.</p> <p>18 MR. STUEVE: I don't even care.</p> <p>19 It's not a question of whether I like it or not.</p> <p>20 I want to make sure I understand.</p> <p>21 MR. MONICA: Are you asking him</p> <p>22 questions you don't care about?</p>

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<p style="text-align: right;">310</p> <p>1 MR. STUEVE: You keep saying I 2 don't like his answer. I want to understand his 3 answer. That's what I want. 4 You start -- you use the term 5 contract. I used the term contract then you 6 complained that I used the term contract, that 7 we don't have any contracts. And so I'm just 8 trying to use your terminology. You're the one 9 that started using margin, I started using 10 margin, then your lawyer started quibbling. The 11 record's going to reflect that. That the margin 12 -- so I had to go through this entire 13 questioning that profit and margin mean the same 14 thing. So here's the preface to my following 15 question. 16 MR. MONICA: First of all, I want 17 you to ask him a question, but I want to put on 18 the record. 19 MR. STUEVE: Make your record. 20 MR. MONICA: If you tell me to do 21 it and you talk over me I can't do it. So 22 please don't talk over me.</p>	<p style="text-align: right;">312</p> <p>1 submitted within the past three months a bid to 2 Kroger concerning their specialty eggs, you had 3 a contract in place with Trillium; is that 4 correct? 5 MR. MONICA: I object to your term 6 contract, but please answer. 7 THE WITNESS: I had an offer from 8 Trillium when I submitted it to Kroger. I 9 didn't make the final agreement with Trillium 10 until Kroger accepted it. 11 BY MR. STUEVE: 12 Q. Okay. That's what I wanted to get 13 clarification. So you had an offer in place 14 from Trillium for a set price for a cage-free 15 egg for one year; is that right? 16 A. Yes. 17 Q. Okay. And based on that 18 information you added a margin or a profit of 19 some number below \$0.20; correct? 20 MR. MONICA: Object to the term 21 margin. 22 THE WITNESS: I said I believe it</p>
<p style="text-align: right;">311</p> <p>1 You're asking him questions, you 2 clearly don't understand your own terminology. 3 You're asking him and trying to confuse him. 4 You're asking him over and over the same thing. 5 You don't like his answer so you keep asking him 6 again. The record is going to reflect that. 7 Please ask your question again. Mr. Hinton, 8 please do your best to answer the question he 9 asks you and make sure you understand what he's 10 asking you. 11 THE WITNESS: I will. 12 BY MR. STUEVE: 13 Q. I want to preface this by contract 14 means agreement, so when I say contract I mean 15 agreement? 16 A. Okay. 17 Q. Margin means the difference 18 between the sales price and your cost; okay? 19 And I want to take this in steps. I'm going to 20 start with -- and I want to just understand the 21 chronology. 22 As I understand it, when you</p>	<p style="text-align: right;">313</p> <p>1 was less than \$0.20 is what I said. 2 BY MR. STUEVE: 3 Q. And you added that on to the offer 4 that you got from Trillium and submitted the bid 5 to Kroger; is that correct? 6 A. Yes. 7 Q. All right. Kroger accepted your 8 bid? 9 A. Yes. 10 Q. You then accepted the offer from 11 Trillium? 12 A. Correct. 13 Q. Which locked in your price from 14 Trillium for one year? 15 A. Yes. 16 Q. Therefore, locked in your profit 17 for that one year period; correct? 18 A. Not exactly. 19 Q. Okay. What is it about that that 20 is not exactly right? 21 A. Okay. The eggs I'm purchasing 22 from Trillium are nest runs, N-E-S-T, R-U-N. So</p>

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<p style="text-align: right;">314</p> <p>1 nest runs are ungraded, unwashed eggs.</p> <p>2 Q. I know what a nest run is.</p> <p>3 A. Okay. So we purchased a nest run</p> <p>4 from Trillium. We pick them up and bring them</p> <p>5 to our plant in North Vernon, Indiana. Then we</p> <p>6 turn around and wash and grade the eggs and pack</p> <p>7 them into Kroger's carton. So the reason I said</p> <p>8 we don't know -- we didn't lock in a profit for</p> <p>9 that whole year is because my freight costs</p> <p>10 could change. I pick up the eggs at Trillium's</p> <p>11 dock and I bring them back to North Vernon, then</p> <p>12 I deliver the material back to them. So I don't</p> <p>13 have a guaranteed freight rate for one year, so</p> <p>14 that could fluctuate. I don't have a guaranteed</p> <p>15 processing cost in my plant for an entire year.</p> <p>16 I don't have a guaranteed grade yield size loss</p> <p>17 on those nest runs for that year. So I don't</p> <p>18 have a guarantee -- I can't sit there and tell</p> <p>19 you that's a guaranteed locked in profit, but</p> <p>20 the -- there will be runs, so it will fluctuate</p> <p>21 some during that year on that load from</p> <p>22 Trillium.</p>	<p style="text-align: right;">316</p> <p>1 Q. Okay. Was your profit, did it</p> <p>2 come out to about the same, your projected</p> <p>3 profit?</p> <p>4 A. I -- it was -- the initial</p> <p>5 compared to where the Trillium started at, the</p> <p>6 initial profit on Eggs-R-Us, I believe, is less</p> <p>7 than what the Trillium is.</p> <p>8 Q. What cents per dozen range are we</p> <p>9 talking about?</p> <p>10 A. Somewhere in the \$0.05 to \$0.10</p> <p>11 range.</p> <p>12 Q. Where would you go to refresh your</p> <p>13 recollection as to that margin or profit?</p> <p>14 A. To records in my office.</p> <p>15 Q. And specifically what records?</p> <p>16 A. A document I have from -- I would</p> <p>17 have to -- two documents. One, the purchase</p> <p>18 price from Eggs-R-Us and, two, would be the</p> <p>19 sales price to Kroger.</p> <p>20 Q. And would those be in the same</p> <p>21 file?</p> <p>22 A. Which file?</p>
<p style="text-align: right;">315</p> <p>1 Q. So you may make a little bit more</p> <p>2 than \$0.20, you may make a little bit less</p> <p>3 depending on those factors; is that right?</p> <p>4 A. I may make a little bit more/less</p> <p>5 than the profit that we started with, which is</p> <p>6 somewhere as I recall, somewhere less than</p> <p>7 \$0.20.</p> <p>8 Q. Then, as I understand it, you then</p> <p>9 submitted an additional bid to Kroger for</p> <p>10 additional sales of cage-free eggs; correct?</p> <p>11 A. For a second load; correct.</p> <p>12 Q. And the source for that additional</p> <p>13 load was Eggs-R-Us?</p> <p>14 A. Correct.</p> <p>15 Q. And what was the price that you</p> <p>16 were paying to Eggs-R-Us compared to Trillium?</p> <p>17 A. It's a much different price</p> <p>18 because we are buying graded packed -- the eggs</p> <p>19 from Eggs-R-Us are already packed in the Kroger</p> <p>20 carton. So we're not doing the processing. So</p> <p>21 we're not buys nest runs. We're buying finished</p> <p>22 product.</p>	<p style="text-align: right;">317</p> <p>1 Q. I'm asking you, would they be in</p> <p>2 the same file?</p> <p>3 A. I don't understand what you mean</p> <p>4 by same file.</p> <p>5 Q. I thought you told me earlier that</p> <p>6 you kept your documents related to the bidding</p> <p>7 on -- in a file?</p> <p>8 A. For what bidding?</p> <p>9 Q. Let me ask it this way.</p> <p>10 Are there multiple files that you</p> <p>11 have that relate to your bidding?</p> <p>12 A. Our bid -- I guess I'm not -- to</p> <p>13 our -- I guess explain the bidding. I just want</p> <p>14 to make sure I'm clear.</p> <p>15 Q. You just testified that there</p> <p>16 would be a document that would reflect your bid</p> <p>17 price to Kroger?</p> <p>18 A. Okay. The price. The pricing to</p> <p>19 Kroger.</p> <p>20 Q. Hold on. Let me finish. You</p> <p>21 testified there would be a document that would</p> <p>22 reflect your bid price to Kroger and there would</p>



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<p style="text-align: right;">318</p> <p>1 be a document that would reflect your purchase</p> <p>2 price from Eggs-R-Us; right?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Would those be kept in the same</p> <p>5 file or would they be kept separately?</p> <p>6 <b>A. I still want to know what file</b></p> <p>7 <b>we're talking about. It's in the sales office.</b></p> <p>8 Q. Okay. Do you keep them in files?</p> <p>9 <b>A. They're either in a filing cabinet</b></p> <p>10 <b>or on the computer and in most cases in an</b></p> <p>11 <b>e-mail on our computers.</b></p> <p>12 Q. And what would be contained in the</p> <p>13 e-mail?</p> <p>14 <b>A. It would have a price to Kroger</b></p> <p>15 <b>that we're selling them for and then we also,</b></p> <p>16 <b>every week we get a price -- every Thursday</b></p> <p>17 <b>Kroger, we get a price sheet from Kroger stating</b></p> <p>18 <b>what that price is so we have all those saved.</b></p> <p>19 <b>They're in my computer, as well as Amanda's and</b></p> <p>20 <b>Cindy's and AR gets a copy of that.</b></p> <p>21 <b>Then the price from Eggs-R-Us</b></p> <p>22 <b>would be an on e-mail file in either Amanda --</b></p>	<p style="text-align: right;">320</p> <p>1 Q. Okay.</p> <p>2 <b>A. I don't believe there's a</b></p> <p>3 <b>document that would have -- in the same document</b></p> <p>4 <b>because it's two different issues.</b></p> <p>5 Q. Right. And so the only way we</p> <p>6 could piece together what on your pricing of</p> <p>7 this sale, for example, of the specialty egg, is</p> <p>8 if you were to review your records and piece</p> <p>9 that together and then I could ask you that</p> <p>10 question and you would be able to tell me,</p> <p>11 sitting here today, what at least your profit</p> <p>12 was anticipated on that transaction; correct?</p> <p>13 <b>A. If I was to look at the price we</b></p> <p>14 <b>paid Eggs-R-Us and the price I sold to Kroger at</b></p> <p>15 <b>I could tell you what profit was added in. Yes.</b></p> <p>16 Q. Okay. And let's flip over to the</p> <p>17 commodity sales that you made to -- that you're</p> <p>18 making to Kroger; okay?</p> <p>19 <b>A. Okay.</b></p> <p>20 Q. As I understand it, the last --</p> <p>21 when was the last commodity bid that you made to</p> <p>22 Kroger?</p>
<p style="text-align: right;">319</p> <p>1 <b>probably Amanda and Cindy's computer.</b></p> <p>2 Q. Would there be an e-mail that</p> <p>3 would have both the sales price to Kroger and</p> <p>4 the purchase price from Eggs-R-Us?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Okay. So in order for me -- this</p> <p>7 is why I'm drilling down because I want to make</p> <p>8 sure the Court understand why we're going to</p> <p>9 have to come back here. There is no way for me</p> <p>10 to piece together what your purchase price was</p> <p>11 with Kroger and what your -- excuse me. Your</p> <p>12 sales price to Kroger and your purchase price</p> <p>13 to -- from Eggs-R-Us, they're not in one</p> <p>14 document anywhere; is that correct?</p> <p>15 MR. MONICA: Objection. Counsel.</p> <p>16 You're talking about a transaction from</p> <p>17 three months ago. I don't know why you have to</p> <p>18 come back here and get the Court involved over</p> <p>19 that, but answer the question if you can.</p> <p>20 BY MR. STUEVE:</p> <p>21 Q. Do you understand my question?</p> <p>22 <b>A. Yes.</b></p>	<p style="text-align: right;">321</p> <p>1 <b>A. It would have been last February.</b></p> <p>2 Q. Okay. And what documents would</p> <p>3 you look at in order to recreate that bidding</p> <p>4 process to determine what profit you had built</p> <p>5 into that bid?</p> <p>6 <b>A. There's no profitability into that</b></p> <p>7 <b>bid.</b></p> <p>8 Q. Okay. So how did you prepare that</p> <p>9 bid?</p> <p>10 <b>A. Well, it was -- on that particular</b></p> <p>11 <b>bid, which was for the Fry's, F-R-Y-'S</b></p> <p>12 <b>Supermarkets in Phoenix, which Kroger owns, I</b></p> <p>13 <b>was the incoming supplier. I supplied the Fry's</b></p> <p>14 <b>business for multiple years. So when I -- when</b></p> <p>15 <b>it came up for bid we looked at what we were</b></p> <p>16 <b>selling at at the time. We looked at our</b></p> <p>17 <b>current freight rates to deliver the eggs to</b></p> <p>18 <b>Phoenix and we sent in our price.</b></p> <p>19 Q. Okay. And was that a competitive</p> <p>20 bidding process?</p> <p>21 <b>A. Yeah. There were -- I was not the</b></p> <p>22 <b>only bidder for that business.</b></p>



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<p style="text-align: right;">322</p> <p>1 Q. And was it your business strategy</p> <p>2 there that you were willing to bid that at your</p> <p>3 costs with the hopes of maintaining the</p> <p>4 relationship and making your margins on the</p> <p>5 specialty egg side?</p> <p>6 MR. MONICA: Objection to the term</p> <p>7 margin. You can answer the question.</p> <p>8 THE WITNESS: We don't -- any time</p> <p>9 we bid commodity eggs there's no guarantee on</p> <p>10 any kind of profit on commodity. So you're</p> <p>11 selling off the market, off the Urner Barry</p> <p>12 market and so our -- because it's based off the</p> <p>13 market, the market changes daily, so there's no</p> <p>14 set. You set a discount to that market, but</p> <p>15 that's all you can do.</p> <p>16 BY MR. STUEVE:</p> <p>17 Q. And how long is your bid in place</p> <p>18 for the commodity eggs for Kroger?</p> <p>19 A. For the Fry's business,</p> <p>20 three years.</p> <p>21 Q. Okay. So you're basically the --</p> <p>22 price you're going to get is going to be subject</p>	<p style="text-align: right;">324</p> <p>1 whether or not you're making a profit off of</p> <p>2 that commodity contract?</p> <p>3 A. No.</p> <p>4 Q. Okay. So how many different</p> <p>5 contracts do you have with Kroger with respect</p> <p>6 to commodity eggs?</p> <p>7 A. Okay. I'm going back to</p> <p>8 contracts. The contract on the Fry's business</p> <p>9 in Phoenix.</p> <p>10 Q. That's a written contract; right?</p> <p>11 A. Yeah. The only other eggs --</p> <p>12 commodity eggs I'm currently selling Kroger is</p> <p>13 some extra large eggs, about two and a half</p> <p>14 loads a week to Shelbyville, Indiana.</p> <p>15 Q. Okay. When did you enter into</p> <p>16 that contract?</p> <p>17 A. That agreement was about -- maybe</p> <p>18 a year, year and a half ago.</p> <p>19 Q. And at the time did you build a</p> <p>20 profit into that bid?</p> <p>21 A. No.</p> <p>22 Q. Okay. Would that be true for all</p>
<p style="text-align: right;">323</p> <p>1 to the fluctuation of the Urner Barry market;</p> <p>2 right?</p> <p>3 A. Correct.</p> <p>4 Q. Your only alternative is I assume</p> <p>5 you could terminate the contract when you wanted</p> <p>6 to; right?</p> <p>7 A. No. It's a three year contract.</p> <p>8 There's clauses.</p> <p>9 Q. Are you obligated to supply for</p> <p>10 three years?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So you don't even have an</p> <p>13 out?</p> <p>14 A. Well, we would have to review the</p> <p>15 language. There is a contract on --</p> <p>16 Q. A written contract?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. But I don't recall that I have a</p> <p>20 specific out clause in it for myself. No.</p> <p>21 Q. Okay. Do you track at all in any</p> <p>22 way, let's take that contract with Kroger,</p>	<p style="text-align: right;">325</p> <p>1 your commodity contracts?</p> <p>2 A. For commodity -- on our commodity</p> <p>3 shell eggs, because any market based commodity</p> <p>4 shell egg bid there is no guarantee of any</p> <p>5 profit. In fact, a lot of times we sell at a</p> <p>6 loss, depending on the market.</p> <p>7 Q. How do you make money on your</p> <p>8 shell egg business?</p> <p>9 A. We hope that the egg market's high</p> <p>10 enough over time that between the losses and the</p> <p>11 gains that we come out ahead.</p> <p>12 Q. But unlike your specialty egg,</p> <p>13 you're not building in some profit at the time</p> <p>14 you make the bid for the commodity eggs; is that</p> <p>15 correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Let's -- on Kraft how many loads a</p> <p>18 week?</p> <p>19 A. Kraft goes more in pounds because</p> <p>20 they buy liquid eggs.</p> <p>21 Q. Let's skip that because I want to</p> <p>22 focus on shell eggs. Let's just skip them.</p>

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<p style="text-align: right;">326</p> <p>1 Topco, how many loads?</p> <p>2 <b>A. All the Topco group members?</b></p> <p>3 Q. Yeah.</p> <p>4 <b>A. Approximately 28 loads a week.</b></p> <p>5 Q. And how do those loads break down</p> <p>6 as far as types of shell eggs?</p> <p>7 <b>A. You mean the difference between</b></p> <p>8 <b>the commodity and specialty eggs?</b></p> <p>9 Q. Yeah.</p> <p>10 <b>A. I believe it's about two loads of</b></p> <p>11 <b>specialty eggs. So maybe a little over two, two</b></p> <p>12 <b>and a half. So maybe 10 percent and 90 percent</b></p> <p>13 <b>commodity, roughly.</b></p> <p>14 Q. And then Wal-Mart? And by the</p> <p>15 way, you had mentioned CCF. Is this one in the</p> <p>16 same when we are referencing Wal-Mart?</p> <p>17 <b>A. Yeah, but what time period do we</b></p> <p>18 <b>want to talk about on the Wal-Mart? Actually,</b></p> <p>19 <b>the numbers you're looking at are 2013; right?</b></p> <p>20 Q. I'm just giving you the top</p> <p>21 customers you identified earlier.</p> <p>22 <b>A. The ones you asked me for 2013?</b></p>	<p style="text-align: right;">328</p> <p>1 relying on, whether it was 2012 or 2013. You</p> <p>2 had testified and as I understood, that I had</p> <p>3 current customer, but I don't know what year</p> <p>4 you're talking about. So are you telling me</p> <p>5 it's 2013?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Okay. Fair enough. So why is</p> <p>8 that important to you?</p> <p>9 <b>A. Because you asked me if that was</b></p> <p>10 <b>CCF and it's not in 2013.</b></p> <p>11 Q. Okay.</p> <p>12 <b>A. If we than want to go to 2002 we</b></p> <p>13 <b>can talk about CCF. You asked me in 2013 how</b></p> <p>14 <b>many I sold to Wal-Mart.</b></p> <p>15 Q. I didn't ask you that question.</p> <p>16 <b>A. Yes. You did.</b></p> <p>17 Q. My question was, when I was</p> <p>18 referring to CCF was it Wal-Mart or CCF?</p> <p>19 <b>A. I was referring to the question</b></p> <p>20 <b>before that.</b></p> <p>21 Q. Let me just get clarification on</p> <p>22 that; okay.</p>
<p style="text-align: right;">327</p> <p>1 Q. Yeah.</p> <p>2 <b>A. Okay. All right.</b></p> <p>3 Q. I'm just going down the list you</p> <p>4 gave me earlier.</p> <p>5 <b>A. For 2013?</b></p> <p>6 Q. I think it was based on the data</p> <p>7 that you believed was the most current?</p> <p>8 <b>A. You asked me 2013.</b></p> <p>9 Q. So --</p> <p>10 <b>A. I want to make sure that's the</b></p> <p>11 <b>ones we're talking about.</b></p> <p>12 Q. I'm not trying to put words in</p> <p>13 your mouth. You felt like the gentleman that</p> <p>14 puts together the list did not have 2013 done,</p> <p>15 but you felt like you had enough information</p> <p>16 that you could give me the list you gave me; is</p> <p>17 that correct, sir?</p> <p>18 <b>A. 2013. I just want to make sure</b></p> <p>19 <b>we've got the right year because I don't sell</b></p> <p>20 <b>CCF shell eggs today.</b></p> <p>21 Q. I'm just trying to tell you what</p> <p>22 you told me. So I don't know what data you're</p>	<p style="text-align: right;">329</p> <p>1 So as I understand it for 2013,</p> <p>2 when we're talking about Wal-Mart you're dealing</p> <p>3 directly with Wal-Mart?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Okay. When did you stop dealing</p> <p>6 with CCF?</p> <p>7 <b>A. 2011.</b></p> <p>8 Q. Okay. And why did you stop in</p> <p>9 2011 dealing with CCF?</p> <p>10 <b>A. Because Wal-Mart for the first</b></p> <p>11 <b>time I recall went out with a national egg bid</b></p> <p>12 <b>for all their divisions and we made a decision</b></p> <p>13 <b>as a company that we would bid on Wal-Mart</b></p> <p>14 <b>direct instead of working with Country Creek.</b></p> <p>15 Q. Okay. So when -- so did you get</p> <p>16 the Wal-Mart bid in 2011 directly from them?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. For calendar year 2011?</p> <p>19 <b>A. It was -- the bids came out</b></p> <p>20 <b>sometime in the summer of 2011 was due in the</b></p> <p>21 <b>fall and the business was awarded approximately</b></p> <p>22 <b>around September 2011 for a three year contract.</b></p>

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<p style="text-align: right;">330</p> <p>1 Q. Okay. And so now -- so let's talk</p> <p>2 about 2013 Wal-Mart. How many loads?</p> <p>3 <b>A. About ten loads direct with</b></p> <p>4 <b>Wal-Mart.</b></p> <p>5 Q. And how does that break down?</p> <p>6 <b>A. It's 100 percent commodity.</b></p> <p>7 Q. And is that pursuant to the bid</p> <p>8 you submitted in the summer of 2011?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And what was that bid?</p> <p>11 <b>A. For -- we bid approximately -- I</b></p> <p>12 <b>think we put in -- we put in a bid price for</b></p> <p>13 <b>approximately 12 Wal-Mart warehouses at that</b></p> <p>14 <b>time, and we were awarded one.</b></p> <p>15 Q. Okay. And what was the bid price?</p> <p>16 <b>A. I don't remember the exact bid</b></p> <p>17 <b>price.</b></p> <p>18 Q. If we were trying to determine</p> <p>19 that what document or documents would that</p> <p>20 information be contained in?</p> <p>21 <b>A. It's in my filing cabinet that was</b></p> <p>22 <b>copied for --</b></p>	<p style="text-align: right;">332</p> <p>1 <b>commodity.</b></p> <p>2 Q. And where -- would Cal-Maine pick</p> <p>3 the eggs up?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And do you know what they were</p> <p>6 doing with those eggs?</p> <p>7 <b>A. Some of them.</b></p> <p>8 Q. What were they doing with them?</p> <p>9 <b>A. Selling to Wal-Mart and to Food</b></p> <p>10 <b>Lion.</b></p> <p>11 Q. What about US Foods? How many</p> <p>12 loads?</p> <p>13 <b>A. It's all food service, so it's not</b></p> <p>14 <b>retail, it's shell eggs. US Foods would be</b></p> <p>15 <b>about 15.</b></p> <p>16 Q. And do you have a -- when's the</p> <p>17 last time you bid that business?</p> <p>18 <b>A. It's been about two years.</b></p> <p>19 THE REPORTER: I'm sorry, counsel.</p> <p>20 I got a note that the real time stopped. Do we</p> <p>21 need to go off the record for a minute?</p> <p>22 THE VIDEOGRAPHER: The time is</p>
<p style="text-align: right;">331</p> <p>1 Q. Would it be in one document or</p> <p>2 would it be in multiple documents?</p> <p>3 <b>A. Because it was 12 divisions they</b></p> <p>4 <b>would have been -- there are documents for each</b></p> <p>5 <b>division we bid on.</b></p> <p>6 Q. And would there be a date or</p> <p>7 indication on there if we were looking at those</p> <p>8 documents that would allow us to determine</p> <p>9 whether or not this was a bid document for the</p> <p>10 summer of 2011?</p> <p>11 <b>A. Yes. I believe so.</b></p> <p>12 Q. Who would have been assisting you</p> <p>13 with that bid?</p> <p>14 <b>A. Amanda Jackson and Greg</b></p> <p>15 <b>Marshall -- I don't know if Lindsey worked on</b></p> <p>16 <b>that bid or not. I can't remember for sure if</b></p> <p>17 <b>it was Lindsey. Mainly it would have been</b></p> <p>18 <b>Amanda, myself and Greg Marshall.</b></p> <p>19 Q. And then Cal-Maine how many loads?</p> <p>20 <b>A. About 17.</b></p> <p>21 Q. And how would that break down?</p> <p>22 <b>A. It would be 98 -- 98, 99 percent</b></p>	<p style="text-align: right;">333</p> <p>1 5:01 p.m. We are going off the record.</p> <p>2 (A brief recess was taken.)</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 5:15 p.m. and we are back on the record.</p> <p>5 BY MR. STUEVE:</p> <p>6 Q. The next customer you identified</p> <p>7 as far as top customers for 2013 is AWG.</p> <p>8 Approximately how many loads do you ship to AWG?</p> <p>9 <b>A. Approximately a little over ten</b></p> <p>10 <b>loads a week.</b></p> <p>11 Q. And how does that break down?</p> <p>12 <b>A. It would be 95 percent plus</b></p> <p>13 <b>commodity eggs and a couple -- less than</b></p> <p>14 <b>5 percent specialty eggs.</b></p> <p>15 Q. And do you deliver all those to</p> <p>16 AWG's warehouse?</p> <p>17 MR. MONICA: Objection.</p> <p>18 THE WITNESS: No. AWG for Kansas</p> <p>19 City?</p> <p>20 BY MR. STUEVE:</p> <p>21 Q. Yeah.</p> <p>22 <b>A. AWG picks up the majority. We</b></p>

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<p style="text-align: right;">334</p> <p>1 <b>deliver one or two loads a month. The rest they</b>  2 <b>pick up at our farm.</b>  3 Q. Okay. So it's a percentage, is it  4 98 percent pick up?  5 <b>A. Yes. Approximately.</b>  6 Q. And those that you are delivering,  7 where are you delivering those?  8 <b>A. To the Kansas City warehouse of</b>  9 <b>AWG.</b>  10 Q. And you would have -- it's your  11 testimony with respect to the bidding for the  12 commodity eggs that when you submitted that bid  13 in -- that would have been the spring of 2013,  14 that you did not build in any margin at the time  15 you submitted that bid; is that correct?  16 <b>A. For the -- on commodity eggs?</b>  17 Q. Yeah.  18 <b>A. Yes. That's correct.</b>  19 Q. And then with respect to the  20 specialty eggs, you did build in a margin; is  21 that correct?  22 MR. MONICA: Object to the term</p>	<p style="text-align: right;">336</p> <p>1 BY MR. STUEVE:  2 Q. And you've never used the term  3 margin to describe that profit; correct?  4 <b>A. In regards to the specialty eggs</b>  5 <b>that we're talking about?</b>  6 Q. Uh-huh.  7 <b>A. Correct.</b>  8 Q. With respect to Flowers, how many  9 loads per week?  10 <b>A. It's all dried product, so it</b>  11 <b>would be -- I'm not sure exactly. I would have</b>  12 <b>to review to look up the loads per week, but the</b>  13 <b>pounds for the Flowers bid would have been</b>  14 <b>approximately five million pounds.</b>  15 Q. This would have been liquid?  16 <b>A. It's all dried.</b>  17 Q. Dried. Excuse me.  18 Let's focus on 2012, and  19 specifically the folks that you've identified  20 here, would they, for 2012 would they have  21 approximately -- excluding AWG because obviously  22 they were not a customer?</p>
<p style="text-align: right;">335</p> <p>1 margin. You may answer.  2 THE WITNESS: We would have -- at  3 the time of the bid we would have looked at our  4 cost and then added on the extra such as  5 packaging and added a profit to that.  6 BY MR. STUEVE:  7 Q. Now, your counsel has repeatedly  8 objected to my use of the term "margin"  9 throughout the day. You've heard those  10 objections; correct?  11 <b>A. Yes.</b>  12 Q. I just want to make sure I  13 understand your testimony, that prior to today  14 you did not use the term "margin" to reflect  15 that amount that you would add on above your  16 cost in the submitting a bid for specialty eggs;  17 is that your testimony?  18 MR. MONICA: Object to the form of  19 the question. You can answer.  20 THE WITNESS: Correct. On the  21 specialty eggs that we sold AWG internally we  22 refer to it as profit.</p>	<p style="text-align: right;">337</p> <p>1 <b>A. Correct.</b>  2 Q. We'll go down the list here. Was  3 Save-A-Lot approximately the same number of  4 loads in 2012?  5 <b>A. Yes.</b>  6 Q. For how long -- how many years had  7 you doing approximately 10 percent of your  8 business?  9 <b>A. With Save-A-Lot?</b>  10 Q. Yeah.  11 <b>A. It would have ranged from 7 to</b>  12 <b>10 percent, going back to 2000.</b>  13 Q. And, again, so is it -- when you  14 said 10 percent, is that approximately 30 loads  15 in 2013? Is that how you came up with the  16 10 percent?  17 <b>A. 2013 they were approximately 40</b>  18 <b>loads.</b>  19 Q. Okay. So it would have been  20 slightly above 10 percent?  21 <b>A. Yes.</b>  22 Q. And then so what has been the</p>

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<p style="text-align: right;">338</p> <p>1 range as far as loads per week over the last 2 several years?</p> <p>3 <b>A. Over the last several years it's</b> 4 <b>been pretty similar. It could have probably</b> 5 <b>increased a couple loads over the last two years</b> 6 <b>because they opened up a new warehouse.</b></p> <p>7 Q. What about Aldie's? Would it have 8 been approximately the same number of loads?</p> <p>9 <b>A. No.</b></p> <p>10 Q. You used approximately 8 percent, 11 what was the load per week you were using for 12 2013?</p> <p>13 <b>A. For Aldie it would have been --</b> 14 <b>2013 just under 30 loads.</b></p> <p>15 Q. Okay. And how has that fluctuated 16 in the past several years?</p> <p>17 <b>A. Prior to this past year we were</b> 18 <b>selling Aldie about 40 loads.</b></p> <p>19 Q. Okay. For how many years?</p> <p>20 <b>A. The 40 loads would have been for</b> 21 <b>probably at least five years.</b></p> <p>22 Q. Okay.</p>	<p style="text-align: right;">340</p> <p>1 dramatically?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And what caused that increase?</p> <p>4 <b>A. We picked up Hy-Vee as an account</b> 5 <b>and Larroc.</b></p> <p>6 Q. And which -- all the Hy-Vee 7 stores?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. What percentage of their shell 10 eggs do you provide?</p> <p>11 <b>A. I don't know their exact sales of</b> 12 <b>some of their specialty eggs, but I would</b> 13 <b>estimate at least 98 percent.</b></p> <p>14 Q. Now, are there any significant 15 customers that you've had in the past as far as 16 loads per week that you haven't -- that we did 17 not identify? Obviously you gave me 2013. Were 18 there some significant customers that you had 19 that you no longer sell to or that has dropped 20 off dramatically?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And who would those customers be?</p>
<p style="text-align: right;">339</p> <p>1 <b>A. Four to five, but going back to</b> 2 <b>2000 they've been over 20 loads.</b></p> <p>3 Q. And then what about Kroger? You 4 indicated 16 loads for 2013. Where have they 5 fallen in the last several years? What's the 6 range been as far as the number of loads per 7 week?</p> <p>8 <b>A. It's been the same there since</b> 9 <b>2012. Prior to that we sold them approximately</b> 10 <b>35 loads.</b></p> <p>11 Q. For how many years?</p> <p>12 <b>A. Probably more than five.</b></p> <p>13 Q. Okay. And then what about Topco? 14 You indicated 28 loads in 2013. Approximately 15 how many loads have you been doing for the past 16 several years?</p> <p>17 <b>A. Prior to -- prior to 2012 only</b> 18 <b>about five loads.</b></p> <p>19 Q. For how many years?</p> <p>20 <b>A. For since we've been dealing</b> 21 <b>with -- at least eight years -- seven -- eight.</b></p> <p>22 Q. So in 2012 and 2013 that increased</p>	<p style="text-align: right;">341</p> <p>1 <b>A. CCF Brands.</b></p> <p>2 Q. Okay. We've talked about that.</p> <p>3 <b>A. Okay.</b></p> <p>4 Q. Who else?</p> <p>5 <b>A. Dutt &amp; Wagner -- sorry. Not Dutt</b> 6 <b>&amp; Wagner. Sorry. Well, okay. I still sold</b> 7 <b>Dutt &amp; Wagner, but their volumes dropped off.</b> 8 <b>Back in 2000 they would have been in my top ten</b></p> <p>9 Q. They're a distributor; is that 10 right?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Any others?</p> <p>13 <b>A. Certified Grocers, that we</b> 14 <b>discussed earlier.</b></p> <p>15 Q. And are you familiar with the 16 company that purchased them?</p> <p>17 <b>A. I'm aware of who they are. Yes.</b></p> <p>18 Q. Is their business model similar to 19 Certified Foods, as far as you know?</p> <p>20 <b>A. As far as I know. Yes.</b></p> <p>21 Q. Any others?</p> <p>22 <b>A. Well, we discussed our Kroger</b></p>

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<p style="text-align: right;">342</p> <p>1 volume because you asked me prior. Our Kroger</p> <p>2 volume dropped off. We still sell to Kroger,</p> <p>3 but the volume changed. Prime Foods we</p> <p>4 discussed before, he's a distributor. At one</p> <p>5 time he would have made my top ten.</p> <p>6 Q. Any others?</p> <p>7 A. No. Not offhand. We've had most</p> <p>8 of our customers for a long time.</p> <p>9 Q. Okay. Now, with respect to topic</p> <p>10 14 it says, "your principal competitors and</p> <p>11 whether you compete with these companies in</p> <p>12 selling eggs and egg products to AWG and AWG</p> <p>13 members." Do you see that topic?</p> <p>14 A. Yes.</p> <p>15 Q. Now, I had asked you earlier who</p> <p>16 you believed would have been in a position to</p> <p>17 bid on the AWG business. Do you remember that?</p> <p>18 A. Yes. I do.</p> <p>19 Q. And would those -- would those</p> <p>20 companies that you identified certainly be your</p> <p>21 principal competitors certainly in the region</p> <p>22 AWG sells -- AWG's distribution centers are</p>	<p style="text-align: right;">344</p> <p>1 competitors?</p> <p>2 A. Yes.</p> <p>3 Q. They're UEP certified; correct?</p> <p>4 A. Correct.</p> <p>5 Q. Midwest Poultry, one of your</p> <p>6 principal competitors?</p> <p>7 A. Yes.</p> <p>8 Q. They're UEP certified; correct?</p> <p>9 A. Correct.</p> <p>10 Q. Creighton Brothers, one of your</p> <p>11 principal competitors?</p> <p>12 A. Yes.</p> <p>13 Q. They're UEP certified; correct?</p> <p>14 A. Correct.</p> <p>15 Q. Weavers, one of your principal</p> <p>16 competitors?</p> <p>17 A. Yes.</p> <p>18 Q. They're UEP certified; correct?</p> <p>19 A. Correct.</p> <p>20 Q. Mylar, they're one of your</p> <p>21 principal competitors?</p> <p>22 A. Correct.</p>
<p style="text-align: right;">343</p> <p>1 located?</p> <p>2 A. Yes. The ones I mentioned.</p> <p>3 Q. So you mentioned Moark; right?</p> <p>4 A. Correct.</p> <p>5 Q. And would that be one of your</p> <p>6 principal competitors?</p> <p>7 A. Yes.</p> <p>8 Q. They're UEP certified; is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Is Sparboe one of your principal</p> <p>12 competitors?</p> <p>13 A. Yes.</p> <p>14 Q. They're currently UEP certified;</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. Centrum Farms, one of your</p> <p>18 principal competitors?</p> <p>19 A. Yes.</p> <p>20 Q. They're UEP certified; correct?</p> <p>21 A. Yes.</p> <p>22 Q. Cal-Maine, one of your principal</p>	<p style="text-align: right;">345</p> <p>1 Q. They're UEP certified?</p> <p>2 A. Yes.</p> <p>3 Q. Feather Crest, they're one of your</p> <p>4 principal competitors?</p> <p>5 A. I consider them more minor</p> <p>6 competitor than competitor yes.</p> <p>7 Q. They're UEP certified?</p> <p>8 A. Yes.</p> <p>9 Q. Where would UEP go if you're in</p> <p>10 the Midwest to purchase eggs, shell eggs, other</p> <p>11 than UEP certified?</p> <p>12 MR. MONICA: Objection. You said</p> <p>13 UEP.</p> <p>14 BY MR. STUEVE:</p> <p>15 Q. Excuse me. Let me rephrase that.</p> <p>16 Where would AWG go to buy eggs from an egg</p> <p>17 producer in the Midwest that is not UEP</p> <p>18 certified?</p> <p>19 A. If they wanted to buy nonUEP</p> <p>20 certified eggs?</p> <p>21 Q. Yeah. Who would that be?</p> <p>22 A. Sonstegard Foods.</p>



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<p style="text-align: right;">346</p> <p>1 Q. Where are they located?</p> <p>2 <b>A. In Iowa.</b></p> <p>3 Q. Okay. And how many birds do they</p> <p>4 have?</p> <p>5 <b>A. About 8 million.</b></p> <p>6 Q. And have they always been nonUEP</p> <p>7 certified?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Do they have their own animal</p> <p>10 welfare program; do you know?</p> <p>11 <b>A. I'm not aware of what they have.</b></p> <p>12 Q. Do you know who they sell their</p> <p>13 eggs primarily to?</p> <p>14 <b>A. I believe a lot -- I think --</b></p> <p>15 <b>well, I believe a lot of them go to California.</b></p> <p>16 Q. And to who? Who are they selling</p> <p>17 in California?</p> <p>18 <b>A. I know they've sold Hidden Villa</b></p> <p>19 <b>Ranch is one person, but I don't know who else</b></p> <p>20 <b>they sell to.</b></p> <p>21 Q. Are they cage-free eggs?</p> <p>22 <b>A. No.</b></p>	<p style="text-align: right;">348</p> <p>1 MR. STUEVE: Excuse me. AWG.</p> <p>2 When you came out before AWG -- it's a long day.</p> <p>3 I apologize.</p> <p>4 When you came out for the 2013 bid</p> <p>5 for AWG you mentioned the topic of UEP certified</p> <p>6 came up; is that correct.</p> <p>7 THE WITNESS: No. I don't think I</p> <p>8 mentioned that.</p> <p>9 BY MR. STUEVE:</p> <p>10 Q. Okay. You don't recall that</p> <p>11 coming up; is that correct, in your discussions?</p> <p>12 <b>A. Before I came out for the bid.</b></p> <p>13 Q. No. When you came out for the</p> <p>14 bid?</p> <p>15 <b>A. During the bid. Okay.</b></p> <p>16 Q. Let me -- let me be clear about</p> <p>17 what I'm asking you.</p> <p>18 As I understand it, you got an</p> <p>19 RFP?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. It had some questions in it?</p> <p>22 <b>A. Yes.</b></p>
<p style="text-align: right;">347</p> <p>1 Q. They're caged eggs?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Okay. And you're saying that you</p> <p>4 believe they sell to customers in California; is</p> <p>5 that right?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. Where else do they sell?</p> <p>8 <b>A. I would think they sell through</b></p> <p>9 <b>the Midwest, but I don't know their customers.</b></p> <p>10 <b>I mean, I don't know their exact customers.</b></p> <p>11 Q. But the principal competitors you</p> <p>12 identified earlier that you compete against, all</p> <p>13 of them are UEP certified; correct?</p> <p>14 <b>A. The ones that you asked me about</b></p> <p>15 <b>for the AWG bid.</b></p> <p>16 Q. Yes.</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Now, when you -- when you spoke</p> <p>19 with UEP when you came out here before, the 2013</p> <p>20 bid?</p> <p>21 <b>A. You mean --</b></p> <p>22 MR. MONICA: AWG.</p>	<p style="text-align: right;">349</p> <p>1 Q. You then came out to visit AWG?</p> <p>2 <b>A. Correct.</b></p> <p>3 Q. During that visit did the topic of</p> <p>4 UEP certified come up?</p> <p>5 <b>A. I believe it did.</b></p> <p>6 Q. Who do you believe asked about</p> <p>7 that?</p> <p>8 <b>A. Linda did most of the talking on</b></p> <p>9 <b>that.</b></p> <p>10 Q. Now, did you ask if there were</p> <p>11 some other animal welfare program that would be</p> <p>12 sufficient for AWG?</p> <p>13 <b>A. No. There's no reason to.</b></p> <p>14 Q. Because you were UEP certified;</p> <p>15 right?</p> <p>16 <b>A. Yes. They asked us on the RFP if</b></p> <p>17 <b>we were and we said yes. There would have been</b></p> <p>18 <b>no reason to bring up anything else.</b></p> <p>19 Q. Now, what I'm asking you, you</p> <p>20 didn't ask to modify any of the specifications</p> <p>21 that you are aware of; is that correct?</p> <p>22 <b>A. No. Because I can meet the</b></p>

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<p style="text-align: right;">350</p> <p>1 <b>specifications as they asked for them.</b></p> <p>2 Q. You understood, though, you could</p> <p>3 modify them -- you could ask for them to be</p> <p>4 modified; right?</p> <p>5 MR. MONICA: Objection. Assumes</p> <p>6 facts not in evidence.</p> <p>7 THE WITNESS: I would have had no</p> <p>8 reason to ask to modify.</p> <p>9 BY MR. STUEVE:</p> <p>10 Q. Okay. But you didn't have an</p> <p>11 understanding you would be prohibited from</p> <p>12 modifying any specification; correct?</p> <p>13 <b>A. It's not common practice for me to</b></p> <p>14 <b>ask a customer to change his specs that I could</b></p> <p>15 <b>already meet. Why would I ask him to change it?</b></p> <p>16 Q. And do you know whether the other</p> <p>17 companies that submitted a bid, whether or not</p> <p>18 they sought to modify any of the specifications?</p> <p>19 <b>A. I don't know.</b></p> <p>20 MR. MONICA: Objection. Assumes</p> <p>21 facts not in evidence. Calls for speculation.</p> <p>22 THE WITNESS: I would have no</p>	<p style="text-align: right;">352</p> <p>1 <b>booklet to get the rest of the information that</b></p> <p>2 <b>was in it.</b></p> <p>3 Q. Did you provide them any copies of</p> <p>4 the audits that you had?</p> <p>5 <b>A. Not at that visit. No.</b></p> <p>6 Q. Have you ever provided them any</p> <p>7 copies of your audits that you're aware of?</p> <p>8 <b>A. I'm not aware for sure.</b></p> <p>9 MR. STUEVE: It's 5:35. Do you</p> <p>10 want to take a break.</p> <p>11 MR. MONICA: Keep going.</p> <p>12 MR. STUEVE: Okay.</p> <p>13 BY MR. STUEVE:</p> <p>14 Q. Do you -- we talked -- one of the</p> <p>15 topics is your -- let's -- why don't we move to</p> <p>16 that. It talks about your communications with</p> <p>17 number 12, topic number 12. Do you see that?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Your relationship with any AWG</p> <p>20 member, including the other Plaintiffs -- hold</p> <p>21 on. I'm sorry. I skipped.</p> <p>22 It's number 11. I'll get to 12,</p>
<p style="text-align: right;">351</p> <p>1 knowledge of what any other competitor asked.</p> <p>2 BY MR. STUEVE:</p> <p>3 Q. All right. Did you provide any</p> <p>4 documentation to AWG concerning your compliance</p> <p>5 with the UEP certified program?</p> <p>6 MR. MONICA: Objection as to</p> <p>7 timeframe.</p> <p>8 THE WITNESS: When we met with</p> <p>9 them?</p> <p>10 BY MR. STUEVE:</p> <p>11 Q. Yeah.</p> <p>12 <b>A. When Amanda and I went out?</b></p> <p>13 Q. Yeah.</p> <p>14 <b>A. Yes. I believe we did.</b></p> <p>15 Q. What did you provide them?</p> <p>16 <b>A. A booklet with our animal -- UEP</b></p> <p>17 <b>animal welfare certificate along with our SQF</b></p> <p>18 <b>certifications and the brochure with our -- just</b></p> <p>19 <b>a Rose Acre brochure. It has pictures of our</b></p> <p>20 <b>farms in it and talks about some of our</b></p> <p>21 <b>capabilities. And then -- what other</b></p> <p>22 <b>documents -- I would have to refer back to the</b></p>	<p style="text-align: right;">353</p> <p>1 but number 11. Your relationship with AWG?</p> <p>2 <b>A. Okay.</b></p> <p>3 Q. We talked about the -- you believe</p> <p>4 that you submitted a bid in '06, but did not get</p> <p>5 any part of that bid; is that correct?</p> <p>6 <b>A. Correct.</b></p> <p>7 Q. And then we talked about the 2013</p> <p>8 bid process; right?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And you also talked about</p> <p>11 inquiries about submitting a bid between '06 and</p> <p>12 2013. Do you recall that?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And approximately what timeframe</p> <p>15 was that?</p> <p>16 <b>A. End of '08, end of '09.</b></p> <p>17 Q. Okay. And did you submit a bid</p> <p>18 during that time?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Okay. And why not?</p> <p>21 <b>A. We were instructed that they were</b></p> <p>22 <b>not accepting bids. They were happy with their</b></p>

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<p style="text-align: right;">354</p> <p>1 <b>current supplier and were not bidding out the</b>  2 <b>business.</b>  3 Q. Okay. So the only time you  4 actually submitted bids, as far as you know, to  5 AWG would have been '06 and then spring of 2013?  6 <b>A. No.</b>  7 Q. Any other time?  8 <b>A. Yeah. I told you earlier, '04.</b>  9 Q. Okay. I'm sorry. Between '06 and  10 2013 you submitted no other bids?  11 <b>A. Not that I recall.</b>  12 Q. All right. Then in '04, you  13 testified about that?  14 <b>A. Yes.</b>  15 Q. All right. Any other contact Rose  16 Acre would have had with AWG other than the ones  17 you just testified to?  18 <b>A. Not that I recall.</b>  19 Q. Okay. Who else -- would Amanda  20 Jackson have information related to that?  21 <b>A. Lindsey Schepman, I discussed it</b>  22 <b>with her, about AWG.</b></p>	<p style="text-align: right;">356</p> <p>1 for how long?  2 <b>A. I think it was several years.</b>  3 Q. Into the 2000s?  4 <b>A. I don't know if it came into 2000</b>  5 <b>or not. It may have just been in the '90s.</b>  6 Q. Okay. Any other contact with AWG  7 concerning egg or egg product sales?  8 <b>A. Not that I recall. No.</b>  9 Q. Okay. The bidding for AWG's  10 bidding, have we identified everything you're  11 aware of?  12 <b>A. For?</b>  13 Q. AWG's -- the bidding?  14 <b>A. From any time?</b>  15 Q. Yeah.  16 <b>A. That I recall. Yes.</b>  17 Q. Okay. And then we -- topic, part  18 G, your employees agents, including but not  19 limited grocery brokers who sell to or  20 correspond with AWG regarding eggs and egg  21 products?  22 MR. MONICA: Counsel, would you</p>
<p style="text-align: right;">355</p> <p>1 Q. All right. What about -- have you  2 participated in any of AWG's food shows?  3 <b>A. No.</b>  4 Q. Have you -- you are aware they do  5 have food shows?  6 <b>A. Actually, not until I read this.</b>  7 Q. Okay. All right. The -- as I  8 understand it, you were not involved in any of  9 the advertising of any of Rose Acre's eggs that  10 are being sold at member stores?  11 <b>A. Correct.</b>  12 Q. All right. And no one at Rose  13 Acre would be involved in that; is that correct?  14 <b>A. Correct.</b>  15 Q. All right. And then your egg and  16 egg product sales to AWG, we talked about the  17 current contract you have in place. Anything  18 else you have to offer on that?  19 <b>A. Well, prior -- sometime in the</b>  20 <b>'90s we sold eggs to Dutch Farms, who in turn</b>  21 <b>sold them to AWG as their customer.</b>  22 Q. All right. And do you remember</p>	<p style="text-align: right;">357</p> <p>1 tell him which topic?  2 BY MR. STUEVE:  3 Q. Topic 11G. I believe I did. Why  4 don't you review that topic first and I'll break  5 it up.  6 <b>A. I guess what specifically do you</b>  7 <b>want to know?</b>  8 Q. Well, I just want to break it up.  9 First of all, the employees. You've already  10 identified Linda Schepman?  11 <b>A. Lindsey Schepman.</b>  12 Q. Lindsey Schepman?  13 <b>A. Amanda Jackson.</b>  14 Q. Amanda Jackson, you?  15 <b>A. And Matt Nieble.</b>  16 Q. And Matt Nieble. Matt Nieble  17 would have had contact with AWG as part of the  18 2013 bid?  19 <b>A. He followed up with them. As I</b>  20 <b>stated earlier, he visited AWG with Amanda once</b>  21 <b>we were awarded the business.</b>  22 Q. Okay. And any other contact of</p>

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<p style="text-align: right;">358</p> <p>1 Matt Nieble with AWG other than that?</p> <p>2 <b>A. Not prior to that visit. No.</b></p> <p>3 Q. And then afterwards?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Does he have the principal contact</p> <p>6 with them?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And who does he principally deal</p> <p>9 with?</p> <p>10 <b>A. With Linda.</b></p> <p>11 Q. Okay. Any other employees that --</p> <p>12 of Rose Acre that would have had contact with</p> <p>13 AWG that we haven't identified?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Okay. And then as far as brokers?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Okay. Any other representative of</p> <p>18 Rose Acre, whether they're an employee or not,</p> <p>19 that would have contact with AWG on behalf of</p> <p>20 AWG?</p> <p>21 <b>A. It's possible that Phyllis Roberts</b></p> <p>22 <b>has had contact with someone at AWG regarding</b></p>	<p style="text-align: right;">360</p> <p>1 Rose Acre?</p> <p>2 <b>A. Probably at least -- more than</b></p> <p>3 <b>five years.</b></p> <p>4 Q. Okay. And both commodity and</p> <p>5 specialty?</p> <p>6 <b>A. I believe we only sell them</b></p> <p>7 <b>commodity.</b></p> <p>8 Q. And who has principal</p> <p>9 responsibility for that account?</p> <p>10 <b>A. Amanda Jackson.</b></p> <p>11 Q. Do you know what the weekly loads</p> <p>12 are?</p> <p>13 <b>A. About -- a little over a load a</b></p> <p>14 <b>week.</b></p> <p>15 Q. And do you know whether Houchens</p> <p>16 buys eggs from anyone else other than Rose Acre?</p> <p>17 <b>A. I don't know for sure.</b></p> <p>18 Q. And AWG did not --</p> <p>19 <b>A. Oh. I'm sorry. I do know that</b></p> <p>20 <b>Houchens Industries does buy eggs from</b></p> <p>21 <b>Save-A-Lot.</b></p> <p>22 Q. The wholesaler?</p>
<p style="text-align: right;">359</p> <p>1 <b>egg taxes and Amy Sheldon. She's our accounts</b></p> <p>2 <b>receivable manager. So on invoices Amy or</b></p> <p>3 <b>someone in Amy's department I'm sure has had</b></p> <p>4 <b>contact with AWG on invoicing.</b></p> <p>5 Q. Okay. And then with respect to</p> <p>6 topic 12, "your relationship with any AWG</p> <p>7 member, including other Plaintiffs or</p> <p>8 third-party Defendants." Do you see that?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Have you had any -- you, I'm</p> <p>11 starting with you, had any direct contact with</p> <p>12 any of AWG's members over the years?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Which ones?</p> <p>15 <b>A. Houchens Industries,</b></p> <p>16 <b>H-O-U-C-H-E-N-S.</b></p> <p>17 Q. And what contact have you had with</p> <p>18 Houchens?</p> <p>19 <b>A. They're a customer of ours and</b></p> <p>20 <b>they want to sell us insurance.</b></p> <p>21 Q. With respect to their egg</p> <p>22 purchases, how long have they been a customer of</p>	<p style="text-align: right;">361</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And do you know how much?</p> <p>3 <b>A. Volume, no.</b></p> <p>4 Q. Okay. How do you know that?</p> <p>5 <b>A. Because when I was on Houchens' --</b></p> <p>6 <b>well, I've been -- I've known it a couple of</b></p> <p>7 <b>ways.</b></p> <p>8 <b>I've known for several years that</b></p> <p>9 <b>Houchens was a franchisee holder in Save-A-Lot</b></p> <p>10 <b>and recently when I've been on their website</b></p> <p>11 <b>they list their -- that they own Save-A-Lot</b></p> <p>12 <b>stores and locations where those stores are</b></p> <p>13 <b>located.</b></p> <p>14 Q. Now, the fact that you sold eggs</p> <p>15 directly to Houchens did not in any way</p> <p>16 disqualify you from submitting a bid for AWG's</p> <p>17 bid in 2013; is that correct?</p> <p>18 <b>A. Correct.</b></p> <p>19 Q. Other than Houchens, do you have</p> <p>20 any direct contact with any other AWG member?</p> <p>21 <b>A. Not that I'm aware of.</b></p> <p>22 Q. With respect to the approximately</p>

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<p style="text-align: right;">362</p> <p>1 load per week, does Houchens pick it up from one 2 of your facilities? 3 <b>A. Yes.</b> 4 Q. Okay. 5 <b>A. Majority of the time. There could</b> 6 <b>have been a time they asked to have something</b> 7 <b>delivered, but their practice is to pick up.</b> 8 Q. Okay. Now, have you attempted to 9 solicit business from any of AWG's members, 10 other than -- other than the sales to Houchens, 11 have you attempted to solicit business from 12 any -- 13 <b>A. Not that I'm aware of.</b> 14 Q. Okay. All right. I think we've 15 got to change the tape; is that right? 16 MR. MONICA: Let's not take a 17 break if that's okay. 18 THE VIDEOGRAPHER: The time is 19 5:45 p.m. We are going off the record. 20 (Videotape change.) 21 THE VIDEOGRAPHER: This is the 22 start of media unit number six. The time is</p>	<p style="text-align: right;">364</p> <p>1 Q. And these folks, because they're 2 large volume purchasers, are able to pick up the 3 eggs on their own or Rose Acre drops them off at 4 a distribution center; correct? 5 <b>A. Yes.</b> 6 MR. MONICA: Give me time to 7 object. Objection. Go ahead and answer, 8 please. 9 THE WITNESS: Oh. Which customers 10 are we talking about? I'm sorry. Are we 11 talking about AWG? I want to make sure. 12 MR. STUEVE: Why don't you read 13 back my question. If you don't understand I'll 14 rephrase it. 15 (The record was read as 16 requested.) 17 THE WITNESS: I guess. 18 MR. MONICA: He answered it. Are 19 you going to ask him again? 20 MR. STUEVE: No. I wanted to read 21 the question and the answer. 22 MR. MONICA: I have a belated</p>
<p style="text-align: right;">363</p> <p>1 5:52 p.m. and we are back on the record. 2 BY MR. STUEVE: 3 Q. So we were -- I want to turn you 4 back to 11H. "It's why you do business with 5 AWG." Do you see that? 6 <b>A. Yes.</b> 7 Q. What -- who made the decision at 8 Rose Acre to submit the bid in 2013? 9 <b>A. The decision to submit the bid.</b> 10 <b>Amanda and myself.</b> 11 Q. Okay. And what were the business 12 reasons why you felt it made good business sense 13 for Rose Acre to submit the bid? 14 <b>A. Because they buy eggs and we're in</b> 15 <b>the business of selling eggs.</b> 16 Q. Okay. And was it attractive to 17 you that they were a large buyer of eggs? 18 <b>A. Yes.</b> 19 Q. Okay. And I think we've seen that 20 certainly many of your customers are large 21 volume purchasers; correct? 22 <b>A. Yes. They are.</b></p>	<p style="text-align: right;">365</p> <p>1 objection to this being vague. You're talking 2 about the question, but he already answered it. 3 THE WITNESS: That last question? 4 MR. MONICA: Yeah. 5 BY MR. STUEVE: 6 Q. You answered it yes. Do you want 7 to qualify it? Because I want to make sure, it 8 sounds like -- 9 <b>A. I would like to qualify it.</b> 10 Q. Okay. Go ahead? 11 <b>A. We have customers, large and some</b> 12 <b>very small, that have the ability to pick up</b> 13 <b>eggs and we deliver. So it's not only large</b> 14 <b>customers, but even our smaller customers have</b> 15 <b>the ability to pick up their eggs. You don't</b> 16 <b>have to be a large customer to go pick up your</b> 17 <b>own eggs. I just wanted to make that clear.</b> 18 Q. Their willingness to pick up their 19 eggs is because they've got a large volume that 20 they're going to be picking up; right? 21 MR. BARNES: Objection. 22 Speculation.</p>

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<p style="text-align: right;">366</p> <p>1 THE WITNESS: No. I think they</p> <p>2 pick up because they have trucks in the areas of</p> <p>3 our farms where they may be delivering groceries</p> <p>4 to their stores and it is advantageous to come</p> <p>5 back and pick up eggs because for them to have a</p> <p>6 back haul it helps with your freight costs.</p> <p>7 BY MR. STUEVE:</p> <p>8 Q. And those trucks they come by with</p> <p>9 they are very large trucks; right?</p> <p>10 <b>A. Yes. They are semi tractor</b></p> <p>11 <b>trailers.</b></p> <p>12 Q. And do you have any large volume</p> <p>13 purchaser that you ship directly to their</p> <p>14 stores?</p> <p>15 <b>A. Define a large volume purchaser.</b></p> <p>16 Q. The customers that we identified,</p> <p>17 your top ten customers. Do you have any that</p> <p>18 you deliver directly to their stores?</p> <p>19 MR. MONICA: Object. Part of it's</p> <p>20 been asked and answered, but go ahead.</p> <p>21 THE WITNESS: I have directly</p> <p>22 delivered before to a store. It's very</p>	<p style="text-align: right;">368</p> <p>1 <b>A. For my customers that I have</b></p> <p>2 <b>today. Yes.</b></p> <p>3 Q. And the top ten customers that we</p> <p>4 identified, that would be true, as well;</p> <p>5 correct, sir?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. All right. Now, with respect to</p> <p>8 why you do business with AWG, you testified</p> <p>9 because they buy eggs; right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. All right. And is it fair to say</p> <p>12 you're hoping to make a profit from the sale of</p> <p>13 those eggs; correct, sir?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. And you're hoping over time to</p> <p>16 grow the business with AWG; correct?</p> <p>17 <b>A. I would like to grow with AWG;</b></p> <p>18 <b>correct.</b></p> <p>19 Q. You, in fact, submitted a bid for</p> <p>20 all of their distribution centers; correct?</p> <p>21 <b>A. I believe we submitted a bid for</b></p> <p>22 <b>all of them.</b></p>
<p style="text-align: right;">367</p> <p>1 uncommon.</p> <p>2 BY MR. STUEVE:</p> <p>3 Q. The large customers that you've</p> <p>4 identified when we went through your top ten</p> <p>5 customers, they either come and pick up the eggs</p> <p>6 in large semis from Rose Acre egg production</p> <p>7 facilities or Rose Acre delivers the eggs in</p> <p>8 large semis to distribution centers for those</p> <p>9 customers; correct?</p> <p>10 <b>A. Well, we have route trucks that we</b></p> <p>11 <b>will deliver. Not just large semis, but smaller</b></p> <p>12 <b>straight trucks.</b></p> <p>13 Q. But those deliveries go to</p> <p>14 distribution centers for those large customers;</p> <p>15 correct?</p> <p>16 <b>A. Yes. For the most part, they go</b></p> <p>17 <b>to a warehouse. Yeah. Warehouse or</b></p> <p>18 <b>distribution center for the customer.</b></p> <p>19 Q. As you said, it is very rare for</p> <p>20 those customers that you would make a delivery</p> <p>21 of eggs to a particular retail outlet; is that</p> <p>22 fair to say?</p>	<p style="text-align: right;">369</p> <p>1 Q. All right. Now, with respect to</p> <p>2 the AWG business, if you look at topic 13. Do</p> <p>3 you see that topic?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. You've been designated; right, to</p> <p>6 testify on behalf of Rose Acre with respect to</p> <p>7 that topic; right?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Since you have secured the AWG</p> <p>10 business that you've already identified, have</p> <p>11 you participated in any promotions, credits,</p> <p>12 coupons, advertising, allowances of support,</p> <p>13 services or remuneration with AWG?</p> <p>14 <b>A. You know, credits I guess that</b></p> <p>15 <b>could refer to credit memo. I would have to</b></p> <p>16 <b>talk to accounts receivable to see whether</b></p> <p>17 <b>there's been an adjustment on any invoice for</b></p> <p>18 <b>whatever reason, that could be construed as a</b></p> <p>19 <b>credit memo. If there's an invoice discrepancy</b></p> <p>20 <b>we would issue.</b></p> <p>21 Q. What about has AWG approached you</p> <p>22 about a promotional discount?</p>



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<p style="text-align: right;">370</p> <p>1           <b>A. No promotional discount as such.</b></p> <p>2           Q. Okay. Have they talked to you</p> <p>3 about any type of a promotion of your eggs</p> <p>4 during a period of time?</p> <p>5           <b>A. Not a promotion, but they have</b></p> <p>6 <b>asked for us to give them a cap on the Urner</b></p> <p>7 <b>Barry market for a ceiling price, no higher</b></p> <p>8 <b>than, so for a period of time. So if the</b></p> <p>9 <b>market, whatever the market is at the time of</b></p> <p>10 <b>the period they've asked for, if the Urner Barry</b></p> <p>11 <b>market exceeds that I've given them a ceiling</b></p> <p>12 <b>price holding that no higher than market price</b></p> <p>13 <b>for them.</b></p> <p>14           Q. Is that for just a certain period</p> <p>15 of time during the year?</p> <p>16           <b>A. Yes. We just did our first one a</b></p> <p>17 <b>couple weeks ago.</b></p> <p>18           Q. And what did you -- what</p> <p>19 timeframes did AWG pick?</p> <p>20           <b>A. It was -- it was the end of</b></p> <p>21 <b>February and there was a three week window they</b></p> <p>22 <b>asked for and we told them that we couldn't</b></p>	<p style="text-align: right;">372</p> <p>1           Q. You would have to be open to at</p> <p>2 least entertaining such a request from AWG?</p> <p>3           <b>A. Yes.</b></p> <p>4           Q. Okay. And so one of those -- is</p> <p>5 the concept there they would pass on any savings</p> <p>6 then to the members so they would promote your</p> <p>7 eggs?</p> <p>8           MR. MONICA: Objection. Calls for</p> <p>9 speculation. You can answer.</p> <p>10           THE WITNESS: Yeah. I don't know</p> <p>11 what their intent is, but to say -- I mean, the</p> <p>12 market -- because I'm not -- all I'm doing is</p> <p>13 giving them a ceiling price on the market. So I</p> <p>14 don't know how they work that. I have no idea</p> <p>15 what the communication is with their members on</p> <p>16 how they use that.</p> <p>17 BY MR. STUEVE:</p> <p>18           Q. Did they explain to you why they</p> <p>19 were asking for that?</p> <p>20           <b>A. They wanted to have a known cost</b></p> <p>21 <b>during that time.</b></p> <p>22           Q. Did they explain to you why they</p>
<p style="text-align: right;">371</p> <p>1           hold -- I couldn't give them a three week</p> <p>2 window, so they asked us -- because the market</p> <p>3 was a little volatile, so they asked if we would</p> <p>4 give them the first week and at the end of the</p> <p>5 first week when we saw -- had more market</p> <p>6 knowledge and what was going on in the</p> <p>7 marketplace, at that point would we give them</p> <p>8 the additional two weeks at that time, which we</p> <p>9 did.</p> <p>10           Q. So in the bid that you submitted,</p> <p>11 were you obligated to offer them the ceiling?</p> <p>12           <b>A. They discussed that when we</b></p> <p>13 <b>visited with them. Yes.</b></p> <p>14           Q. But was that part of the bid</p> <p>15 process?</p> <p>16           <b>A. Yes.</b></p> <p>17           Q. Okay. So and were the time</p> <p>18 periods outlined in the bid process?</p> <p>19           <b>A. No.</b></p> <p>20           Q. Okay. Just certain times during</p> <p>21 the year?</p> <p>22           <b>A. Yes.</b></p>	<p style="text-align: right;">373</p> <p>1           picked that period of time?</p> <p>2           <b>A. No.</b></p> <p>3           Q. Okay. And you had no --</p> <p>4           <b>A. Because it could be -- they'll</b></p> <p>5 <b>come to us when -- the timing when they're going</b></p> <p>6 <b>to do it they're going to ask and we're supposed</b></p> <p>7 <b>to be open to, and they specifically told us</b></p> <p>8 <b>that whatever the ceiling -- because we told</b></p> <p>9 <b>them it could be difficult at times not knowing</b></p> <p>10 <b>what the market -- what's happening in the</b></p> <p>11 <b>market conditions. They told us we had no</b></p> <p>12 <b>obligation to what that price had to be. I can</b></p> <p>13 <b>set that ceiling whatever we're comfortable</b></p> <p>14 <b>setting it at.</b></p> <p>15           Q. They didn't explain to you why</p> <p>16 they wanted that?</p> <p>17           <b>A. Once I set a ceiling then they</b></p> <p>18 <b>know their price would be no higher than a</b></p> <p>19 <b>certain amount. So that's why they would have</b></p> <p>20 <b>it. So they would know the top price they would</b></p> <p>21 <b>pay during that time.</b></p> <p>22           Q. What I'm asking is why would they</p>

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<p style="text-align: right;">374</p> <p>1 ask for that for a short period of time?</p> <p>2 MR. MONICA: Objection. Calls for</p> <p>3 speculation.</p> <p>4 THE WITNESS: That's so they would</p> <p>5 have a known cost. No higher than during that</p> <p>6 period of time.</p> <p>7 BY MR. STUEVE:</p> <p>8 Q. But did they explain to you like</p> <p>9 this time, why they were picking the particular</p> <p>10 time they were picking?</p> <p>11 A. Why they picked February?</p> <p>12 Q. Yeah.</p> <p>13 A. Not -- no reason why they would</p> <p>14 pick February. I mean, I thought they would</p> <p>15 have done it sooner, but they just now did the</p> <p>16 first one.</p> <p>17 Q. Okay. And you have no</p> <p>18 understanding as to why they picked this</p> <p>19 particular timeframe; is that fair to say?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Have you -- any other</p> <p>22 allowances or any other thing that they've asked</p>	<p style="text-align: right;">376</p> <p>1 have nothing to add.</p> <p>2 BY MR. STUEVE:</p> <p>3 Q. Okay. Any other customers that</p> <p>4 would come to you during the year and ask for</p> <p>5 discounts off of the market price or the</p> <p>6 specialty egg price to promote the product?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And who would those be?</p> <p>9 A. That came to me and asked for a</p> <p>10 discount?</p> <p>11 Q. To Rose Acre, whether it was you</p> <p>12 or somebody else?</p> <p>13 A. Hillcrest Food Service.</p> <p>14 Q. And what kind of deal would they</p> <p>15 ask for?</p> <p>16 A. They would ask for a discount per</p> <p>17 dozen off their price.</p> <p>18 Q. And what would be the basis for</p> <p>19 that request?</p> <p>20 A. They wanted to give a price to</p> <p>21 their customer. They have wanted to give them a</p> <p>22 discount.</p>
<p style="text-align: right;">375</p> <p>1 for?</p> <p>2 A. A swell allowance.</p> <p>3 Q. And that was part of the bid;</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. Anything else?</p> <p>7 A. No.</p> <p>8 Q. Okay. Now?</p> <p>9 A. Not that I can think of.</p> <p>10 Q. We talked about AWG. You've</p> <p>11 mentioned Topco and Save-A-Lot have come to you</p> <p>12 during the year and asked for discounts on the</p> <p>13 set price; is that correct?</p> <p>14 A. Discounts against the market</p> <p>15 price; correct.</p> <p>16 Q. Right. And so we talked --</p> <p>17 anything more to add with respect to Save-A-Lot</p> <p>18 and Topco that would be responsive to topic</p> <p>19 number 13?</p> <p>20 MR. MONICA: Objection. Vague and</p> <p>21 compound. You can answer.</p> <p>22 THE WITNESS: No. Not really. I</p>	<p style="text-align: right;">377</p> <p>1 Q. And how often does Hillcrest Food</p> <p>2 Service do that on an annual basis?</p> <p>3 A. Several times a year.</p> <p>4 Q. Okay. And do you agree to those?</p> <p>5 A. Sometimes.</p> <p>6 Q. Okay. Is it typically several</p> <p>7 times a year you'll agree to those?</p> <p>8 A. I don't always agree with it, but</p> <p>9 several times a year I give them a discount.</p> <p>10 Yes.</p> <p>11 Q. Is that typically for a set period</p> <p>12 of time?</p> <p>13 A. Yes. A set period or a set --</p> <p>14 maybe a set load of eggs or something.</p> <p>15 Q. All right. Any other customers?</p> <p>16 A. Dutch Farms.</p> <p>17 Q. Okay. And they're the distributor</p> <p>18 we've been talking about earlier?</p> <p>19 A. Yes.</p> <p>20 Q. And how often do they ask?</p> <p>21 A. Several times a year also.</p> <p>22 Q. And is the concept then that they</p>

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<p style="text-align: right;">378</p> <p>1 would pass that savings on to their customer and 2 hopefully drive volume? 3 MR. MONICA: Objection. You can 4 answer. 5 THE WITNESS: Either drive volume 6 or keep business because they compete with other 7 distributors. 8 BY MR. STUEVE: 9 Q. Okay. Any others? 10 A. <b>Egg Depot.</b> 11 Q. And how often? 12 A. <b>Several -- many times a year.</b> 13 Q. And who are they passing those 14 savings on to? 15 A. <b>Honestly, I don't know what they</b> 16 <b>sell their price for, but I mean, they ask for</b> 17 <b>discounts on eggs to sell, but I don't know</b> 18 <b>their customers. They sell inner-city in the</b> 19 <b>Bronx.</b> 20 Q. Okay. Is this one of the 21 strategies that you would implement with respect 22 to situations in which you're long on eggs?</p>	<p style="text-align: right;">380</p> <p>1 Hidden Villa? 2 A. <b>Today we have no regular sales to</b> 3 <b>them. We sold them in the past.</b> 4 Q. In the past how high have they 5 gotten? 6 A. <b>From 2000 to 2012, that period.</b> 7 <b>The peak would have been an average of about 9</b> 8 <b>to ten loads a week.</b> 9 Q. Any of your more significant 10 customers that routinely ask for discounts that 11 we haven't talked about? 12 A. <b>I can recall once or twice in the</b> 13 <b>last four or five years with Kroger, but it's</b> 14 <b>pretty rare.</b> 15 Q. Now, with respect to -- are there 16 any other -- besides discounts off of the Uner 17 Barry price, are there any other types of 18 allowances or promotions that you would 19 participate in with your customers? 20 A. <b>I participate in some food shows.</b> 21 Q. Okay. And for which customer? 22 A. <b>For Dutch Farms.</b></p>
<p style="text-align: right;">379</p> <p>1 MR. MONICA: Objection. Vague. 2 You can answer. 3 THE WITNESS: Is? 4 BY MR. STUEVE: 5 Q. Where you would agree to a 6 discount would be during a time period in which 7 you're long on eggs? 8 A. <b>Yes. That happens.</b> 9 Q. Okay. Other customers? 10 A. <b>That?</b> 11 Q. Ask for discounts? 12 A. <b>Yes.</b> 13 Q. Who else? 14 A. <b>Hidden Villa.</b> 15 Q. What is Hidden Villa? 16 A. <b>They're a distributor in</b> 17 <b>California, but they also own some production of</b> 18 <b>their own. Similar to a Dutt &amp; Wagner.</b> 19 Q. Okay. Would they ask for 20 discounts various times during the year? 21 A. <b>Yes.</b> 22 Q. What's the volume you sell to</p>	<p style="text-align: right;">381</p> <p>1 Q. And would those food shows, would 2 the purpose of those be to promote your 3 specialty eggs and commodity or one or the other 4 or both? 5 A. <b>Both.</b> 6 Q. Okay. 7 A. <b>With Dutch Farms.</b> 8 Q. Okay. And at those food shows 9 would you offer certain promotions? 10 A. <b>Yes.</b> 11 Q. And what would those be? 12 A. <b>Oh, I -- I don't know the</b> 13 <b>specific. We just recently did a show with</b> 14 <b>Dutch Farms in the last two months and it was</b> 15 <b>a -- it was a price for -- there was a discount</b> 16 <b>on two loads of medium eggs. I can't remember</b> 17 <b>the exact -- we gave them a deal on two loads of</b> 18 <b>medium for the show.</b> 19 Q. Okay. So did they actually sell 20 them at the show? 21 A. <b>Yes.</b> 22 Q. Any others come to mind?</p>

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<p style="text-align: right;">382</p> <p>1           <b>A. Ohio Farmers, but their shows we</b>  2           <b>only participate with liquid eggs. So we didn't</b>  3           <b>do the shell eggs.</b>  4           <b>Going back to 2000 we probably did</b>  5           <b>a Certified show. Certified used to have a</b>  6           <b>couple shows a year and I don't recall what all</b>  7           <b>our participation was, but I remember we used to</b>  8           <b>do those -- we used to attend their shows.</b>  9           <b>Q. Okay.</b>  10           <b>A. Let me think. Them are the ones</b>  11           <b>that come to mind.</b>  12           <b>Q. Okay. Any other allowances,</b>  13           <b>advertising, coupons that -- programs that you</b>  14           <b>would participate in that we haven't identified</b>  15           <b>with some of your customers?</b>  16           <b>A. There is -- with Hillcrest and</b>  17           <b>Houchens we have a -- Houchens gets a monthly</b>  18           <b>credit on purchases up to -- it's up to a</b>  19           <b>certain dollar amount based on their -- on what</b>  20           <b>they purchase each month.</b>  21           <b>Q. Okay.</b>  22           <b>A. And Hillcrest gets a -- I believe</b></p>	<p style="text-align: right;">384</p> <p>1           <b>buy the eggs at a store -- if the consumer</b>  2           <b>brings in a coupon when they check out they will</b>  3           <b>get the discount off the dozen they purchase at</b>  4           <b>that store.</b>  5           <b>Q. Does the consumer know from the</b>  6           <b>coupon what that retail price is?</b>  7           <b>A. Not from the coupon. No.</b>  8           <b>Q. They have to go into the store to</b>  9           <b>learn that?</b>  10           <b>A. To learn the price of the dozen</b>  11           <b>eggs they would find out, yeah, from the store</b>  12           <b>they would take the coupon like they had for any</b>  13           <b>product and redeem it at check out.</b>  14           <b>Q. Any other coupons or allowances?</b>  15           <b>A. No coupons. No coupons.</b>  16           <b>Allowances. Nothing that comes to mind right</b>  17           <b>now.</b>  18           <b>Q. Let's back up a little bit with</b>  19           <b>Houchens. So based on their volume purchases</b>  20           <b>from Rose Acre, you give them a credit; is that</b>  21           <b>correct?</b>  22           <b>A. They get a monthly credit;</b></p>
<p style="text-align: right;">383</p> <p>1           <b>it's \$250 marketing allowance for a customer of</b>  2           <b>theirs called Dave's Supermarkets in Cleveland.</b>  3           <b>And then we have an annual</b>  4           <b>promotion budget that for some customers that</b>  5           <b>purchase Egglard's Best eggs.</b>  6           <b>And there are -- Egglard's Best</b>  7           <b>does -- puts out coupons and we notify</b>  8           <b>customers, let them know there's going to be</b>  9           <b>coupons, FSIs, flyers in like the weekly</b>  10           <b>newspaper and those are all redeemed by</b>  11           <b>Egglard's Best, Incorporated. We don't redeem</b>  12           <b>the coupons, but we notify our customers that</b>  13           <b>the coupons are going to be in the flyers.</b>  14           <b>Q. And what are the -- what's the</b>  15           <b>nature of the coupons? Are they a certain</b>  16           <b>amount off retail price?</b>  17           <b>A. Yes. Cents per dozen off, yes, a</b>  18           <b>discount.</b>  19           <b>Q. Do they indicate what its cents</b>  20           <b>per off of the retail price, does it tell the</b>  21           <b>customer what the retail price is?</b>  22           <b>A. It tells the consumer when they</b></p>	<p style="text-align: right;">385</p> <p>1           <b>correct.</b>  2           <b>Q. And what's it based off of, number</b>  3           <b>of loads or dollar amount?</b>  4           <b>A. Number of dozens purchased.</b>  5           <b>Q. Okay. And what is that credit?</b>  6           <b>A. The -- the amount of the credit?</b>  7           <b>Q. Uh-huh.</b>  8           <b>A. I need to -- I would need to</b>  9           <b>double-check, but it's -- I think there's a cap</b>  10           <b>on it of -- I would have to check. It's</b>  11           <b>somewhere around \$1,500, possibly.</b>  12           <b>Q. Okay. Is there any requirement</b>  13           <b>that they pass that credit on to their</b>  14           <b>customers?</b>  15           <b>A. Oh, I don't know what they do with</b>  16           <b>the credit.</b>  17           <b>Q. So the answer is there is no</b>  18           <b>requirement what they do with the credit?</b>  19           <b>A. No.</b>  20           <b>Q. Now, you indicated with respect to</b>  21           <b>Hillcrest that there's a \$250 marketing</b>  22           <b>allowance; is that right?</b></p>

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<p style="text-align: right;">386</p> <p>1           <b>A. Yes.</b></p> <p>2           Q. And is the -- does that have to be</p> <p>3 sent on print advertising?</p> <p>4           <b>A. I -- I don't know what they -- I</b></p> <p>5 <b>just know it's for Dave's Supermarkets, but I</b></p> <p>6 <b>don't know how it's used.</b></p> <p>7           Q. And what type of Rose Acre eggs</p> <p>8 does Dave's Supermarkets sell?</p> <p>9           <b>A. Our Country Day Break brand.</b></p> <p>10 <b>Jumbos -- I believe he buys all sizes, jumbos,</b></p> <p>11 <b>extra large, large, medium, 18 pack large.</b></p> <p>12           Q. And how many Dave's Supermarkets</p> <p>13 are there?</p> <p>14           <b>A. I don't know. I would guess ten,</b></p> <p>15 <b>maybe. I'm not sure exactly how many there are.</b></p> <p>16 <b>I really don't. Maybe less than ten.</b></p> <p>17           Q. Okay. Then you indicated that</p> <p>18 there's an annual promotion budget for Egglard's</p> <p>19 Best; is that right?</p> <p>20           <b>A. Yes.</b></p> <p>21           Q. And how is that administered?</p> <p>22           <b>A. We would sit down with the</b></p>	<p style="text-align: right;">388</p> <p>1           Q. Where are those stores?</p> <p>2           <b>A. Illinois -- St. Louis market area.</b></p> <p>3           Q. Okay. And where are the Schnucks</p> <p>4 located?</p> <p>5           <b>A. Through -- their headquarters is</b></p> <p>6 <b>in St. Louis, so their stores are throughout</b></p> <p>7 <b>Missouri and Illinois.</b></p> <p>8           Q. Approximately how many participate</p> <p>9 in the Egglard's Best promotional?</p> <p>10           <b>A. For who? Approximately?</b></p> <p>11           Q. How many of the Schnucks</p> <p>12 participate in the annual promotion for</p> <p>13 Egglard's Best, which you administer?</p> <p>14           <b>A. It would be all the Schnucks</b></p> <p>15 <b>stores.</b></p> <p>16           Q. How many?</p> <p>17           <b>A. They've got a little over 100.</b></p> <p>18           Q. Okay. And what about Hy-Vee</p> <p>19 stores?</p> <p>20           <b>A. I believe they have a little over</b></p> <p>21 <b>200.</b></p> <p>22           Q. And all participate?</p>
<p style="text-align: right;">387</p> <p>1           customer and discuss the number of times a</p> <p>2 year -- beginning -- it's not necessarily a</p> <p>3 calendar year, but say a 12 month period. We</p> <p>4 would work with them on how many times a year</p> <p>5 they would promote the different products of</p> <p>6 Egglard's Best. And then from us if say, for</p> <p>7 example, if it was a cage-free egg or a red,</p> <p>8 white, and blue as they call it, and we said</p> <p>9 we're going to give you this week 35 -- we're</p> <p>10 going to give you \$0.10 a dozen off on all those</p> <p>11 eggs you purchased that week. And then it's up</p> <p>12 to them what they -- how they go out and promote</p> <p>13 that or market that. So it's set -- we discuss</p> <p>14 it so it's all put in place for an entire 12</p> <p>15 month period, promotion calendar for the year.</p> <p>16           Q. Okay. Which customers do you deal</p> <p>17 with?</p> <p>18           <b>A. On that particular type of</b></p> <p>19 <b>scenario for the annual budget we work with</b></p> <p>20 <b>Schnucks, with Hy-Vee, with -- then we work with</b></p> <p>21 <b>Hautley Cheese in St. Louis, who in turn sells</b></p> <p>22 <b>those to, I believe Neiman's and Dierberg's.</b></p>	<p style="text-align: right;">389</p> <p>1           <b>A. Well, I -- any of the stores that</b></p> <p>2 <b>they have that carry the Egglard's Best.</b></p> <p>3           Q. Okay. And so would you -- who at</p> <p>4 Rose Acre would sit down with Schnucks, for</p> <p>5 example, and figure out the promotional budget</p> <p>6 or the Egglard's Best promotional budget for the</p> <p>7 year?</p> <p>8           <b>A. The budgets -- for Rose Acres the</b></p> <p>9 <b>person that works on the budgets is Lindsey</b></p> <p>10 <b>Schepman.</b></p> <p>11           Q. Okay. And does she sit down with</p> <p>12 somebody at Schnucks and maps it out?</p> <p>13           <b>A. She works with Schnucks, along</b></p> <p>14 <b>with a sales rep from Egglard's Best.</b></p> <p>15           Q. Okay. And who is that?</p> <p>16           <b>A. John Mahalic, M-A-H-A-L-I-C.</b></p> <p>17           Q. And do you know if there is print</p> <p>18 advertising that's utilized to promote these</p> <p>19 promotions throughout the year?</p> <p>20           <b>A. Yes, there are.</b></p> <p>21           Q. And who works with Schnucks with</p> <p>22 respect to the Egglard's Best print advertising?</p>

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<p style="text-align: right;">390</p> <p>1           <b>A. Well, Egglard's Best handles print</b>  2           <b>advertising direct with newspapers.</b>  3           Q. Who determines the advertising  4           price?  5           MR. MONICA: Objection. Assumes  6           facts not in evidence.  7           THE WITNESS: Okay. The -- make  8           sure we're talking about the same thing.  9           The advertising price for the  10          promotional calendar we give them, not coupons?  11          BY MR. STUEVE:  12          Q. Yeah. For the promotional  13          calendar?  14          <b>A. The -- that is between Rose Acres</b>  15          <b>and Egglard's Best to determine it.</b>  16          Q. And who at Rose Acre would be  17          involved in that?  18          <b>A. Lindsey Schepman.</b>  19          Q. And who at Egglard's Best?  20          <b>A. John Mahalic.</b>  21          Q. And is that information then  22          provided to Schnucks?</p>	<p style="text-align: right;">392</p> <p>1           Q. But Schnucks has to agree to  2           participate; right?  3           <b>A. Redeeming coupons? Yeah. I guess</b>  4           <b>Schnucks could refuse to redeem coupons. I</b>  5           <b>don't know. I don't know any retailers that</b>  6           <b>would do that but it's their business to honor</b>  7           <b>coupons or not.</b>  8           Q. The -- who notifies, though, the  9           Schnucks stores when these promotions are going  10          to be run, promoting the Rose Acre Egglard's  11          Best eggs?  12          <b>A. Okay. I think we're talking about</b>  13          <b>two different things.</b>  14          Q. So what you said, there's a  15          calendar at the beginning of the year that's  16          worked out between Egglard's Best and Rose  17          Acres?  18          <b>A. A promotion calendar.</b>  19          Q. Who tells the Schnucks stores when  20          these promotions are going to be run about the  21          calendar?  22          <b>A. We don't -- the Schnucks stores</b></p>
<p style="text-align: right;">391</p> <p>1           <b>A. Yes.</b>  2           Q. Then who actually implements the  3           advertising? Is it Egglard's Best?  4           <b>A. Well, Egglard's Best pays for</b>  5           <b>advertising in magazines and newspapers to</b>  6           <b>promote Egglard's Best product.</b>  7           Q. That's what I'm saying. So  8           they're the ones who actually purchase the  9           advertising?  10          <b>A. Yes.</b>  11          Q. But it's promoting Egglard's Best  12          at the Schnucks store, we're using Schnucks as  13          the example; is that correct?  14          <b>A. Well, when they purchase</b>  15          <b>advertising it's not specifically to one</b>  16          <b>retailer. It's in the market area. So they'll</b>  17          <b>send it out to whole St. Louis and like</b>  18          <b>Champagne, so whatever retail. So not only</b>  19          <b>Schnucks, but any supermarket selling Egglard's</b>  20          <b>Best eggs could redeem coupons. So advertising</b>  21          <b>is geared towards all Egglard's Best. It's not</b>  22          <b>geared specifically to a retailer in that case.</b></p>	<p style="text-align: right;">393</p> <p>1           <b>they would do internally. The Schnucks buyer,</b>  2           <b>Lindsey would work with the Schnucks buyer on</b>  3           <b>the promotions.</b>  4           Q. Okay. So the Schnucks buyer would  5           be aware of the promotional calendar that had  6           been worked out between Rose Acre and Egglard's  7           Best; is that correct?  8           <b>A. Yes.</b>  9           Q. Okay. And that would be -- that  10          would be done at the beginning of the year; is  11          that right?  12          <b>A. It's a 12 month period. I'm not</b>  13          <b>saying it's exactly the beginning of the year.</b>  14          <b>I don't know, you know, exactly the timing, but</b>  15          <b>it's a 12 month calendar year.</b>  16          Q. All right. Is there actually a  17          document that evidences the promotions?  18          <b>A. Yes.</b>  19          Q. And what is in the document?  20          <b>A. It would have the timing of the</b>  21          <b>different promotions and the different products</b>  22          <b>we're going to promote during the year.</b></p>



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<p style="text-align: right;">394</p> <p>1 Q. Okay. And the timeframe for those</p> <p>2 promotions?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And then how else -- and</p> <p>5 then is that actually given then to the Schnucks</p> <p>6 store?</p> <p>7 A. I don't know. Given to the</p> <p>8 Schnucks buyer.</p> <p>9 Q. Okay.</p> <p>10 A. And Schnucks owns their stores, so</p> <p>11 however they communicate that. I don't know how</p> <p>12 they communicate it, but.</p> <p>13 Q. Okay. And does Eggland's Best</p> <p>14 give Rose Acre a copy of the print advertising?</p> <p>15 A. I get copies -- it's -- so we're</p> <p>16 back to the advertising. We're not talking</p> <p>17 about the promotion calendar. The print</p> <p>18 advertising -- Eggland's Best does they do send</p> <p>19 me pretty much on an every other week basis</p> <p>20 copies of magazines they have ran ads in to</p> <p>21 promote Eggland's Best eggs.</p> <p>22 Q. And in those advertisements do</p>	<p style="text-align: right;">396</p> <p>1 with Eggland's Best?</p> <p>2 A. It's not month, but on a yearly</p> <p>3 basis -- there's not a promotion every month.</p> <p>4 It's a yearly calendar that gives them the times</p> <p>5 of the year for the different products and the</p> <p>6 different discounts they're going to receive,</p> <p>7 Schnucks is going to receive on those products.</p> <p>8 Q. Okay. That's separate from a</p> <p>9 coupon program; is that correct?</p> <p>10 A. Yes. It is.</p> <p>11 Q. All right. And then how does</p> <p>12 Eggland's Best promote those discounts that</p> <p>13 they're providing to Schnucks?</p> <p>14 A. To my knowledge -- I don't -- I'm</p> <p>15 not aware of what they would do to promote them.</p> <p>16 I mean, we give them to Schnucks, but I don't</p> <p>17 know -- I'm not aware of what -- if Eggland's</p> <p>18 does anything for those particular on their</p> <p>19 promotion calendar. I mean --</p> <p>20 Q. Do you have a price sheet that's</p> <p>21 given to Schnucks that reflects those discounts?</p> <p>22 A. Yes. The promotion that I</p>
<p style="text-align: right;">395</p> <p>1 they notify the customer what their -- the price</p> <p>2 of the eggs will be that they're going to be</p> <p>3 purchasing the Eggland's Best eggs?</p> <p>4 A. No. It's just an advertisement</p> <p>5 promoting --</p> <p>6 Q. The brand?</p> <p>7 A. The brand. It's an advertisement</p> <p>8 promoting the brand.</p> <p>9 Q. Is there also a promotion of the</p> <p>10 discount or the coupon?</p> <p>11 A. No. That's something separate.</p> <p>12 That's FSIs I was talking about. If they send</p> <p>13 out coupons that's usually done in the -- a lot</p> <p>14 of times it's done in the Sunday circulars where</p> <p>15 there's a lot of coupons for a lot of products</p> <p>16 in the stores. Eggland's Best happens to be one</p> <p>17 of them. That's couponing that Eggland's Best</p> <p>18 supports and takes care of.</p> <p>19 Q. Just so I understand, the process</p> <p>20 you were just talking about, though, with</p> <p>21 respect to this monthly promotional campaign</p> <p>22 that Schnucks would -- that Rose Acre would work</p>	<p style="text-align: right;">397</p> <p>1 discussed, the promotional calendar we give them</p> <p>2 would have their promotions for that year.</p> <p>3 Q. And that would contain the -- the</p> <p>4 purchase price plus the discount price?</p> <p>5 A. No.</p> <p>6 Q. What is on that pricing document?</p> <p>7 A. It would only be the period of</p> <p>8 time and the discount given.</p> <p>9 Q. Okay. But is there any other</p> <p>10 retail pricing information -- suggested retail</p> <p>11 pricing information on that document?</p> <p>12 A. No.</p> <p>13 Q. What -- what -- but is the bid</p> <p>14 pricing reflected in the price sheet that shows</p> <p>15 the promotion?</p> <p>16 A. The document that we give them on</p> <p>17 the calendar year, the promotional calendar</p> <p>18 year, would only reflect the time period and the</p> <p>19 discount given for the particular product.</p> <p>20 Q. How is the discount given</p> <p>21 reflected?</p> <p>22 A. Price per dozen.</p>

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<p style="text-align: right;">398</p> <p>1 Q. Price per dozen?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. So hypothetically \$0.03 or \$0.04</p> <p>4 per dozen?</p> <p>5 <b>A. Correct.</b></p> <p>6 Q. And they would know, though, once</p> <p>7 you send out the price sheets -- I assume you</p> <p>8 give them weekly price sheets; is that right?</p> <p>9 MR. MONICA: Objection. Vague.</p> <p>10 THE WITNESS: On which product?</p> <p>11 BY MR. STUEVE:</p> <p>12 Q. On the commodity eggs?</p> <p>13 <b>A. On commodity --</b></p> <p>14 Q. Let me back up.</p> <p>15 So on the Eggland's Best?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. You're selling the -- they're</p> <p>18 going to know what the -- what their purchase</p> <p>19 price is already; right?</p> <p>20 MR. MONICA: Objection.</p> <p>21 BY MR. STUEVE:</p> <p>22 Q. Because that's a fixed -- that's a</p>	<p style="text-align: right;">400</p> <p>1 it; right?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And that -- so they have known for</p> <p>4 the last five years what their purchase price is</p> <p>5 going to be for Eggland's Best eggs from Rose</p> <p>6 Acre; correct?</p> <p>7 <b>A. They have always known what their</b></p> <p>8 <b>purchase price is going to be. It's changed</b></p> <p>9 <b>over time, but they know what that price is.</b></p> <p>10 <b>Yes.</b></p> <p>11 Q. Well, but I thought you said you</p> <p>12 bid it five years ago; right?</p> <p>13 <b>A. When I first started selling</b></p> <p>14 <b>Eggland's, but it's changed over time.</b></p> <p>15 Q. When's the last time it changed?</p> <p>16 <b>A. It was changed about a year ago.</b></p> <p>17 Q. And was -- a year ago was it --</p> <p>18 again, did you follow your normal protocol where</p> <p>19 you take your cost, all of your cost, add a</p> <p>20 profit margin and give them the bid price?</p> <p>21 MR. MONICA: Object to the term</p> <p>22 margin. You can answer.</p>
<p style="text-align: right;">399</p> <p>1 fixed price; right?</p> <p>2 MR. MONICA: Objection. Vague as</p> <p>3 to "they".</p> <p>4 THE WITNESS: Okay. Who is going</p> <p>5 to know the pricing for Eggland's Best?</p> <p>6 BY MR. STUEVE:</p> <p>7 Q. Let me back up a little bit. With</p> <p>8 respect to Schnucks.</p> <p>9 <b>A. Okay.</b></p> <p>10 Q. This is a -- do you have a</p> <p>11 contract with Schnucks to purchase your</p> <p>12 Eggland's Best products?</p> <p>13 <b>A. I've got an agreement with</b></p> <p>14 <b>Schnucks to purchase Eggland's Best -- well,</b></p> <p>15 <b>yes. I have an agreement for Schnucks to</b></p> <p>16 <b>purchase Eggland's Best products.</b></p> <p>17 Q. All right. And how long has that</p> <p>18 agreement been in place?</p> <p>19 <b>A. Over five years, I believe.</b></p> <p>20 Q. All right. And that's for a -- at</p> <p>21 the time you bid it it was based on your cost</p> <p>22 plus a profit number; correct, that was added to</p>	<p style="text-align: right;">401</p> <p>1 THE WITNESS: At the time we</p> <p>2 reviewed our cost, reviewed all our costs and</p> <p>3 packaging cost and whatever goes into that</p> <p>4 component, added up profit and gave Schnucks a</p> <p>5 price. Yes.</p> <p>6 BY MR. STUEVE:</p> <p>7 Q. Okay. And so for 2013 they would</p> <p>8 know on a weekly basis what their purchase price</p> <p>9 was for Eggland's Best eggs; correct?</p> <p>10 <b>A. That Schnucks would know?</b></p> <p>11 Q. Yeah.</p> <p>12 <b>A. What their price is. Yes.</b></p> <p>13 Q. And would that be reflected in a</p> <p>14 price sheet that you would give to Schnucks?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And did that price sheet also,</p> <p>17 when there was a promotion for Eggland's Best,</p> <p>18 reflect the discount?</p> <p>19 <b>A. No. That's a separate document.</b></p> <p>20 Q. All right. What document would</p> <p>21 they get that would notify them that they're in</p> <p>22 the period for a discount?</p>



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